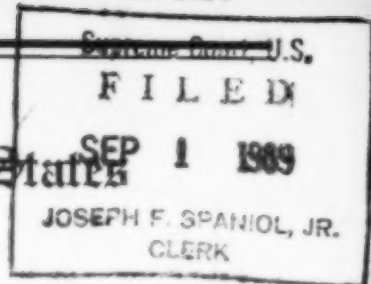


IN THE
Supreme Court of the United States

OCTOBER TERM, 1989



JANE HODGSON, ET AL.,

Petitioners and Cross-Respondents,

—v.—

THE STATE OF MINNESOTA, ET AL.,

Respondents and Cross-Petitioners.

ON WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE EIGHTH CIRCUIT

JOINT APPENDIX

JANET BENSHOOF
(Counsel of Record)
RACHAEL PINE
LYNN PALTROW
American Civil Liberties
Union Foundation
132 West 43rd Street
New York, New York 10036
(212) 944-9800

*Attorneys for Petitioners/
Cross-Respondents Other Than
Planned Parenthood of Minnesota*

WILLIAM Z. PENTELOVITCH
REBECCA PALMER
Maslon Edelman Borman & Brand
1800 Midwest Plaza
Minneapolis, Minnesota 55402
(612) 339-8015

*Attorneys for Petitioner/
Cross-Respondent Planned Parenthood
of Minnesota*

HUBERT H. HUMPHREY, III
Attorney General
State of Minnesota
KENNETH E. RASCHKE, JR.
Assistant Attorney General
JOHN B. GALUS
Special Assistant
Attorney General
(Counsel of Record)
525 Park Street
St. Paul, Minnesota 55103
(612) 296-2654

*Attorneys for Respondents/
Cross-Petitioners*

(Counsel Continued On Inside Front Cover)

LINDA OJALA
Kurzman, Grant & Ojala
2445 Park Avenue South
Minneapolis, Minnesota 55404
(612) 871-9004

*Attorneys for Petitioners/
Cross-Respondents Other Than
Planned Parenthood of Minnesota*

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11. Plaintiffs' Exhibit No. 116, "Live Births and Induced Abortions to Women Age 15-19" 136a

J.A. 1

RELEVANT DOCKET ENTRIES

Civil 3-81-538

DATE

PROCEEDINGS

- 7-30-81 1 VERIFIED COMPLAINT Issued Summons
- 2 PLTFFS' MOTION FOR TEMPORARY RESTRAINING ORDER pursuant to Rule 65, Fed. R. of Civ. P.
- 3 AFFIDAVIT OF JANE HODGSON, M.D.
- 4 AFFIDAVIT OF GORDON DITMANSON, M.D.
- 5 AFFIDAVIT OF ALICE ROE
- 6 AFFIDAVIT OF MICHELLE ROE
- 7 AFFIDAVIT OF DIANA ROE
- 8 AFFIDAVIT OF JANE E. HODGSON, M.D.
- 9 AFFIDAVIT OF GAYNELLE DOE
- 10 AFFIDAVIT OF JANE MOE
- 11 AFFIDAVIT OF ANN DOE
- 12 AFFIDAVIT OF DR. RONALD ANDERSON
- 13 AFFIDAVIT OF PAULA WENDT
- 14 AFFIDAVIT OF LINDA OJALA
- 15 AFFIDAVIT OF JACQUELINE DARROCH FORREST
- 16 AFFIDAVIT OF ADELE D. HOFMANN, M.D.
- 17 AFFIDAVIT OF THOMAS P. WEBBER
- ASSIGNED TO ALSOP-J per CIVIL RIGHTS 617*
- 7-31-81 18 FINDINGS OF FACT CONCLUSIONS OF LAW AND ORDER (Alsop-J 7-31-81) that motion of pltf for

J.A. 2

DATE

PROCEEDINGS

temporary restraining order is granted in part and denied in part. FURTHER ORDERED that a temporary restraining order issue, without security therefor, as follows:

It is Ordered That, until further Order of this Court, the defendants the State of Minnesota, Albert Quie, and Warren Spannaus, their agents, employees, and those working in concert with them, are enjoined and prohibited from enforcing the provisions of Minnesota Statutes 144.343, Subd. 2 except insofar as it is enforced, in accordance with Minnesota Statutes 144.343, Subd. 6, as though a paragraph (c) were incorporated into Minnesota Statutes 144.343 Subd. 2.

19 TEMPORARY RESTRAINING ORDER
(Alsop-J 7-31-81)

20 MINUTES OF PROCEEDINGS: (Alsop-J)
(Lindberg-Reporter) Mr. Jevne moves for the admission of Janet Benshoof to The bar of this Court for purposes of this lawsuit. Hearing on Pltffs' motion for a temporary restraining order: Argued, submitted and taken under advisement.

21 NOTICE TO COUNSEL

7-30-81 22 MINUTES OF PROCEEDINGS: (Alsop-J)
(Lindbergreporter) Hearing on Pltff's Motion For Temporary Restraining Order: Rescheduled to Friday, July 31, 1981 2 P.M.

8-7-81 23 SUMMONS returned served 8-4-81

8-7-81 24 MINUTES OF PROCEEDINGS: (Alsop-J)
(Lindberg-Reporter) STATUS CONFERENCE

J.A. 3

DATE

PROCEEDINGS

8-10-81 25 NOTICE OF DISMISSAL pursuant to Rule 41(a)(1)(i) F.R.C.P. to dismiss without prejudice, all claims against Deft. Tom Johnson as County Attorney for Hennepin County by Pltff.

26 STIPULATION FOR INTERVENTION

27 AFFIDAVIT OF NADINE T.

28 ORDER FOR INTERVENTION (Alsop-J 8-10-81) that the unemancipated minor female suing under pseudonym as Nadine T. is hereby permitted to intervene as an additional pltff..

29 COMPLAINT OF INTERVENOR NADINE T.

30 NOTICE TO COUNSEL

8-10-81 REPORTER'S NOTES of Motion 8-7-81 (Box 81-3 Lindberg-Reporter)

REPORTER'S NOTES OF MOTION 7-30-81 and 7-31-81 (Box 81-3 Lindberg-Reporter)

8-24-81 31 JOINT ANSWER OF STATE DEFENDANTS

8-26-81 32 AFFIDAVIT OF KAREN L. IVES

33 AFFIDAVIT OF MICHAEL D. CALVERT

34 AFFIDAVIT OF GREGORY DATE

35 AFFIDAVIT OF PAUL GUNDERSON

36 AFFIDAVIT OF NANCY L. HELMICH

8-28-81 37 AFFIDAVIT OF JACQUELINE MUCH

38 AFFIDAVIT OF CARMEN KEMSKI

39 AFFIDAVIT OF THOMAS CAMPBELL, M.D.

40 AFFIDAVIT OF A.K.

41 AFFIDAVIT OF KATHERINE (Tina) Welsh

42 AFFIDAVIT OF CAROL R.

DATE	PROCEEDINGS
	43 AFFIDAVIT OF RENNE WARD, M.A.
	44 AFFIDAVIT OF JUDY R.
8-28-81	45 AFFIDAVIT of Jan Roe
	46 AFFIDAVIT OF MARTHA Z.
9-3-81	47 AFFIDAVIT OF JANE E. HODGSON, M.D.
	48 REPORTER'S TRANSCRIPT OF MOTION July 31, 1981.
9-4-81	49 SECOND AFFIDAVIT OF KAREN L. IVES
	50 SECOND AFFIDAVIT OF MICHAEL D. CALVERT
9-4-81	REPORTER'S NOTES OF MOTION 9-4-81 (Lindberg-Box 81-4)
	51 MINUTES OF PROCEEDINGS: (Alsop-J) (Lindberg-Reporter) Hearing on Pltff's Motion for Preliminary Injunction: argued, submitted and taken under advisement. Parties each to submit their proposed findings by Sept. 16, 1981. TRO is continued.
	52 AFFIDAVIT
9-10-81	53 SECOND AFFIDAVIT OF GREGORY DATE
	54 PLTFFS' NOTICE OF MOTION FOR CLASS CERTI- FICATION Noticed for Sept. 18, 1981.
	55 PLTFFS' MOTION FOR CERTIFICATION AS A CLASS ACTION, pursuant to Rule 23 of the FRCP.
9-17-81	56 Janet T.'s MOTION FOR LEAVE TO INTERVENE AND TO PROCEED PSEUDONYMOUSLY pursuant to Rule 24 (b) of Fed. R. of Civ. P.
	57 AFFIDAVIT of JANET T.
	58 AFFIDAVIT OF PAULA WENDT

DATE	PROCEEDINGS
9-18-81	59 FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER FOR CLASS CERTIFICATION (Alsop-J 9-18-81) that pltff. class is certified to include: All unemancipated pregnant mature minors seeking abortions in Minnesota who have adequate capacity to give informed consent to abortion but who do not want to involve their parents.
	60 STIPULATION CONCERNING CERTIFICATION OF PLAINTIFF CLASS AND INTERVENTION OF ANONYMOUS PLAINTIFF
	61 ORDER FOR INTERVENTION OF JANET T. (Alsop-J 9-18-81) that the unemancipated minor female suing under pseudonym as Janet T. is hereby permitted to intervene as an additional plaintiff in the above-entitled action.
	62 NOTICE TO COUNSEL
9-21-81	63 AFFIDAVIT OF PAULA WENDT
9-30-81	64 JANET T. INTERVENOR'S PROPOSED COM- PLAINT
10-26-81	65 PLTFFS' NOTICE OF MOTION TO REOPEN THE RECORD ON PLAINTIFFS' MOTION FOR A PRE- LIMINARY INJUNCTION Noticed for Oct. 30, 1981 1:30 P.M. at St. Paul.
	66 MOTION TO REOPEN THE RECORD permitting Pltffs. to submit, affidavits, of Donald R. Rysavy, Sarah L, Kathy M, N.B., Mrs. Nan Roe, Janet Benshoof and Franz Jevne III.
10-29-81	67 STIPULATION CONCERNING LIMITATIONS OF ACCESS TO CERTAIN DOCUMENTS AND TO SHORTEN MOTION TIME ON PLAINTIFFS' MOTION FOR SUBMISSION OF ADDITIONAL DOCUMENTS.

DATE	PROCEEDINGS
10-30-81	68 MINUTES OF PROCEEDINGS: (Alsop-J) (Lindberg-Reporter) Hearing on Pltff's Motion to Re-open Preliminary Injunction Motion: Agreed between parties. Pltffs. to draw stipulation and proposed order.
11-2-81	REPORTER'S NOTES of Motion 10-30-81 (Lindberg-Reporter Box 81-4)
3-23-82	69 FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER (Alsop-J 3-22-82) that motion of plaintiffs for a preliminary injunction is granted in part and denied in part. FURTHER ORDERED that a preliminary injunction should issue, without security therefor, as follows: Pursuant to the Findings of Fact, Conclusions of Law and Order of the court dated March 22, 1982, IT IS ORDERED That, until further order of this court, the defendants the State of Minnesota, Albert Quie, and Warren Spannaus, their agents, employees, and those working in concert with them, are ENJOINED AND PROHIBITED from enforcing the provisions of Minn. Stat. § 144.343, Subd. 2, except insofar as it is enforced in accordance with Minn. Stat. § 144.343, Subd. 6, as though a paragraph (c) were incorporated into Minn. Stat. § 144.343, Subd. 2.
	70 PRELIMINARY INJUNCTION (Alsop-J 3-22-82).
	71 NOTICE TO COUNSEL
9-15-82	72 PRETRIAL CONFERENCE (Short-M; 9-14-82)
9-15-82	73 PRETRIAL SCHEDULE (Short-M; 9-14-82) THAT: 1) the period which parties may conduct

DATE	PROCEEDINGS
	discovery shall terminate on Oct. 1, 1983; 2) all non-dispositive motions, specifically those which relate to discovery and the discovery period, shall be filed and scheduled for hearing on or before Oct. 1, 1983; 3) all dispositive motions shall be filed and scheduled for hearing according to the requirements of Judge Alsop's standing Order Re Motion Practice on or before Nov. 1, 1983; and 4) this case shall be considered ready for trial on Dec. 1, 1983.
12-03-82	74 AFFIDAVIT OF FRANZ P. JEVNE, III
8-29-83	75 DEFTS NO. OF MO. & MO. TO COMPEL DISCOVERY AND EXTEND PRETRIAL SCHEDULE Ret. Bef. Mag. Short on 9-12-83 at 9:00 a.m. in St. Paul, MN.
	76 AFFIDAVIT OF KENT G. HARBISON IN SUPPORT OF DEFTS MO. TO COMPEL (SEPARATE)
9-6-83	77 AFFIDAVIT OF JANET BENSHOOF IN OPPOSITION TO DEFT. MOTION TO COMPEL DISCOVERY
	78 AFFIDAVIT OF LINDA M. OJALA IN OPPOSITION TO DEFT MOTION TO COMPEL
9-16-83	79 AMENDED PRETRIAL SCHEDULE (SHORT-M) THAT: 1) Discovery ends 2-01-84; 2) Nondispositive motions by 2-01-84; 3) Dispositive motions by 3-01-84; 4) Case be ready for trial by 4-01-83. Sent copies to counsel.
12-12-83	80 NO. OF TAK. DEPOSITION OF JANE MORROW ON 12-16-83 at 10:00am in Mpls., MN.
12-09-83	81 PLTFFS MOTION FOR A PROTECTIVE ORDER

DATE	PROCEEDINGS
	82 AFFIDAVIT OF PAM GALLOP IN SUPPORT OF MO. FOR PRO. ORDER
	83 AFFIDAVIT OF JANET BENSHOOF IN SUPPORT OF MO. FOR PROT. ORDER
12-15-83	84 STATE OF MINNESOTA AND JUDGE GERALD MARTIN NO. OF MO. & MO. FOR protective order Ret. Bef. Mag. Short on 12-27-83 at 9:00 a.m.
	85 AFFIDAVIT IN SUPPORT OF MOTION FOR PROTECTIVE ORDER OF JOHN B. GALUS.
12-20-83	86 PLTFFS NO. OF MO. & MO. FOR ENLARGEMENT OF TIME FOR DISCOVERY RET. BEF. Mag. Short on 12-27-83 at 9:00 a.m. in St. Paul, MN.
	87 AFFIDAVIT OF FRANZ P. JEVNE, III IN SUPPORT OF PLTFFS MO. FOR ENLARGEMENT OF TIME
	88 PLTFFS NO. OF MO. & MO. FOR LEAVE TO INTERVENE, TO PROCEED PSEUDONYMOUSLY & TO amend complaint Ret. Bef. on 1-9-84 at 9:00 a.m. in St. Paul, MN.
	89 AFFIDAVIT OF LAUREN Z.
	90 AFFIDAVIT OF ELLEN Z.
	91 AFFIDAVIT OF PAULA WENDT
12-21-83	92 AFFIDAVIT IN OPPOSITION TO PLTFFS MO. FOR PROTECTIVE ORDER OF JOHN B. GALUS
12-22-83	93 AFFIDAVIT IN OPPOSITION TO ANY PROTECTIVE ORDER AGAINST THE DEPOSITION OF Judge Martin of JANET BENSHOOF
12-27-83	94 MINUTES (SHORT-MAG) RE: PLTFFS MO. FOR PROTECTIVE ORDER-DENIED; Defts Mo. for protective order-DENIED.

DATE	PROCEEDINGS
12-30-83	95 ORDER (SHORT-MAG) THAT: PLTFFS MO. FOR PROTECTIVE ORDER IS DENIED; STATE OF MN mo. & Judge Gerald Martin for protective order is DENIED.
	96 NOTICE TO COUNSEL
12-20-83	97 PLTFFS MOTION FOR LEAVE TO INTERVENE, PROCEED PSEUDONYMOUSLY AND TO AMEND the Complaint (Rec'd 1-6-84)
1-11-84	98 AFFIDAVIT OF DR. RONALD ANDERSON in support of pltffs' motion for extension of dis.
	99 AFFIRMATION OF STANLEY K. HENSHAW in support of pltffs' motion for protective order
1-17-84	100 MINUTES (Short-M) pltffs mo. to extend discovery-granted, extended to April 1, 1984; mo. to amend complaint-granted; parties to draft another complaint.
1-31-84	101 ORDER (SHORT-MAG) THAT: PLTFFS MO. FOR ENLARGEMENT OF TIME BY 60 DAYS WITHIN WHICH parties must complete discovery is GRANTED: Discovery ends 4-01-84; nondispositive motions by 4-01-84; dispositive motions by 5-01-84; Case to be considered ready for trial on 6-01-84; Pltffs mo's for leave to intervene and amend complaint are GRANTED.
	102 AMENDED COMPLAINT-ISSUED AMENDED SUMMONS
	103 NOTICE TO COUNSEL
2-13-84	104 AMENDED ANSWER OF DEFTS
3-15-84	105 PLTFFS NOTICE OF MOTION FOR LEAVE TO USE DEPOSITIONS OF MEMBERS OF THE PLAINTIFF CLASS OF WOMEN Ret. before on 3-26-84 at 9:00 a.m.

DATE	PROCEEDINGS
	106 AFFIDAVIT OF PAULA WENDT
	107 STATEMENT OF COUNSEL PURSUANT TO LOCAL RULE 4(c)
	108 STIPULATION RE: PLTFFS MOTION #105
4-2-84	109 NOTICE OF TAKING DEPOSITION AND SUBPOENA DUCES TECUM OF SUZANNE SMITH ON 4-5-84 at 4:00 in Mpls., MN
	110 NOTICE OF TAKING DEPOSITION AND SUBPOENA DUCES TECUM OF JUDGE GEORGE O. PETERSEN ON 4-5-84 at 2:00 in Mpls., MN
	111 NOTICE OF TAKING DEPOSITION AND SUBPOENA DUCES TECUM OF JUDGE ALLEN OLEISKY on 4-5-84 at 12:00 in Mpls., MN
4-11-84	112 STIPULATION OF PARTIES TO DEFER HEARING ON RULE 32 MOTION UNTIL TIME CLOSER TO ACTUAL TRIAL DATE Ret. before Mag. Short Apr. 2, 1984 (rec'd 3-27-84)
5-1-84	113 DEFTS. NOTICE OF MO. & MO. FOR PART. SUMMARY JUDGT. ret. before Judge Alsop June 15, 1984, 10:00 a.m.
	114 DEFT. MO. FOR LEAVE TO FILE MEMORANDUM OF POINTS/AUTHORITIES IN SUPPORT OF PART. SUMMARY JUDGT. IN EXCESS OF 35 PAGES
	115 AFFIDAVIT OF STUART BECK
	116 4th AFFIDAVIT OF MICHAEL D. CALVERT
	117 AFFIDAVIT OF DONALD CULLEN
	118 AFFIDAVIT OF CYNTHIA DALY
	119 4th AFFIDAVIT OF GREGORY J. DATE
	120 AFFIDAVIT OF ESTHER S. FELDMAN

DATE	PROCEEDINGS
	121 AFFIDAVIT OF JOHN FILLINWORTH
	122 AFFIDAVIT OF D.J. HANSON
	123 AFFIDAVIT OF NANCY L. HELMICH
	124 4th AFFIDAVIT OF KAREN L. IVES
	125 AFFIDAVIT OF A. MILTON JOHNSON
	126 AFFIDAVIT OF DAVID KNUTSON
	127 AFFIDAVIT OF MARK A. McDONOUGH
	128 AFFIDAVIT OF DAVID L. NORRGARD
	129 AFFIDAVIT OF JAMES P. SLTEET
	130 AFFIDAVIT OF SUSANNE K. SMITH
	131 AFFIDAVIT OF PAUL WETPHAL
	132 AFFIDAVIT OF GERALD J. WINTER
5-3-84	133 ORDER (Alsop-J) deft. memo. of points/authorities in support of part. summary judgt. mo. may exceed 35 pages, not to exceed 45 pages, responsive briefs by pltffs may exceed 35 pages, not to exceed 45 pages
	134 NOTICE TO COUNSEL
6-7-84	135 DEFTS RESPONSE TO PLTFFS (SECOND) REQUEST FOR ADMISSION
	136 DEPOSITION OF GERALD C. MARTIN (SEPARATE)
	137 DEPOSITION OF KATHERINE WELSH (SEPARATE)
	138 DEPOSITION OF MARIE HONKALA (SEPARATE)
	139 DEPOSITION OF SHERRY SIMPSON (SEPARATE)
	140 APPENDIX TO PLTFFS BRIEF IN OPPOSITION TO DEFTS MO. FOR SUMMARY Judgment (SEPARATE) (VOLUME I)

DATE	PROCEEDINGS
	141 APPENDIX TO PLTFFS BRIEF IN OPPOSITION TO DEFTS MO. FOR SUMMARY Judgment (SEPARATE) (VOLUME II)
	142 APPENDIX TO PLTFFS BRIEF IN OPPOSITION TO DEFTS MO. FOR SUMMARY Judgment (SEPARATE) (VOLUME III)
6-7-84	143 DEPOSITION OF SHERRY SIMPSON (Separate)
	144 DEPOSITION OF CYNTHIA J. (Separate)
	145 DEPOSITION OF BONNIE L. (Separate)
6-25-84	146 PLTFFS NOTICE OF MO. & MO. RE: DEPOSITIONS—Judge Alsop, July 6, 1984, 2:00 p.m.
	147 AFFIRMATION OF JANE HODGSON IN OPPOSITION TO DEFTS. MO. FOR SUMMARY JUDGT.
7-6-84	148 STIPULATION AND ORDER (Alsop-J) that: 1) pltffs' mo. for leave to use depos of members of the plttf class of women at trial in lieu of testimony is GRANTED; 2) pltffs may use all other pseudonymous depos of minors, parents/immed. family members at trial in lieu of of testimony; 3) pltffs shall not oppose any mo. of state defts to use same; 4) no waiver of pltffs' nor defts' right to raise evidentiary objections to depos at trial
	149 NOTICE TO COUNSEL
7-6-84	150 MINUTES (Alsop-Lindberg) deft. mo. for summary judgment. Plft. mo. to use testimony by deposition is nesolved parties. Motion taken under advisment.
8-30-84	REPORTERS NOTES OF 7-9-84 (Alsop-J; Lindberg-R) RE: Motion (BOX 84-5)
1-23-85	151 MEMORANDUM ORDER (ALSOP-J) THAT: Defts mo. for partial summary judgment—

DATE	PROCEEDINGS
	GRANTED IN PART & DENIED IN PART.; Defts summary judgment mo. on facial due process claim—GRANTED & that claim is dismissed; Defts' summary judgment motion on due process as applied claim—DENIED; Defts' summary judgment motion on equal protection claim—GRANTED & that claim is Dismissed; Defts' summary judgment motion on state constitutional claims—GRANTED & those claims are dismissed.
	152 NOTICE TO COUNSEL
3-25-85	153 PLTFFS NO. OF MO. & MO. TO REOPEN LIMITED DISCOVERY RET. BEF. MAG. SHORT AT THE Pretrial Conference on March 28, 1985.
	154 AFFIDAVIT OF WILLIAM Z. PENTELOVITCH
3-28-85	155 PRETRIAL CONFERENCE OF 3-28-85 (Short-Mag)
	156 SUBSTITUTION OF COUNSEL
3-29-85	157 CERTIFICATE OF READINESS FOR TRIAL (SHORT-MAG)
	158 ORDER (SHORT-MAG) THAT: All foundation objection to exhibits listed on parties exhibit lists filed at final pretrial conference are waived unless made in writing within 60 days of date of that pretrial conference; Parties' stipulation of facts shall be filed within 60 days of pretrial conference date; Parties shall identify all deposition transcripts intended to be used at trial within 7 days of date on which they receive trial notice. That identification shall include name of deponent, pages to be offered at trial & purposed for which testimony will be offered.
	159 NOTICE TO COUNSEL w/copy of order

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DATE	PROCEEDINGS
6-24-85	160 PLTFF'S. NOTICE OF TAKING DEPO. & REQUEST FOR PRODUCTION OF DOCUMENTS OF JANE HODGSON, ON 7/11-12/85 comm. at 10:00 am, in Mpls., MN
9-10-85	161 STIPULATION OF FACTS FOR PURPOSES OF TRIAL—SET II
2-5-86	162 DEFTS' OBJECTIONS TO PORTIONS OF DEPOSITION TESTIMONY OFFERED BY PLTFFS.
	163 DEFTS' NO/MO IN LIMINE TO EXCLUDE THE TESTIMONY OF PAUL G. GARRITY
2-10-86	164 DEPO. OF MARY Y. Taken 1-11-84 in Duluth, MN (separate)
	165 DEPO. OF LORRAINE H. Taken 1-18-84 in Burnsville, MN (separate)
	166 DEPO. OF LAUREN Z., taken 3-20-84 in St. Louis Park, MN (separate)
	167 DEPO. OF JENNY M. Taken 12-16-83 in Duluth, MN (separate)
	168 DEPO. OF IDA B. taken 2-8-84 in St. Louis Park, MN (separate)
	169 DEPO. OF AMELIA F., taken 1-10-84 in Duluth, MN (separate)
	170 DEPO. OF SYLVIA P., taken 12-16-83 in Duluth, MN (separate)
	171 DEPO. OF SUSAN B., Taken 1-11-84 in Duluth, MN (separate)
	172 DEPO. OF AGNES I., Taken 12-16-83 in Mpls., MN (separate)
	173 DEPO. OF AMY W., taken 1-11-84 in Duluth, MN (separate)

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DATE	PROCEEDINGS
	174 DEPO. OF ANGELA E., Taken 12-27-83 in Mpls., MN (separate)
	175 DEPO. OF ANNA C., Taken 1-18-84, in Mpls., MN (separate)
	176 DEPO. OF BETH F., Taken 12-28-83 in Mpls., MN (separate)
	177 DEPO. OF BONNIE L., Taken 3-23-84 in Mpls., MN (separate)
	178 DEPO. OF CLARA Z., Taken 1-11-84 in Duluth, MN (separate)
	179 DEPO. OF CYNTHIA J., Taken 2-23-84 in Blue Earth Cty, MN (separate)
	180 DEPO. OF ELIZABETH S., Taken 12-16-83 in Duluth, MN (separate)
	181 DEPO. OF EMMA G., Taken 12-15-83 in Mpls., MN (separate)
	182 DEPO. OF FLORENCE K., Taken 12-28-83 in Mpls., MN (separate)
	183 DEPO. OF FRANCIS H. Taken 1-18-84 in Burnsville, MN (separate)
	184 DEPO. OF HARRIET T., taken 12-17-83 in Mpls., MN (separate)
	185 DEPO. OF MARY J., Taken 12-17-83 in St. Louis Park, MN (separate)
	186 DEPO. OF NADINE T., taken 3-21-84 in St. Louis Park, MN (separate)
	187 DEPO. OF NATALIE C., Taken 1-10-84 in Duluth, MN (separate)
	188 DEPO. OF ROSE C., Taken 12-12-83 in Mpls., MN (separate)

DATE	PROCEEDINGS
	189 DEPO. OF ROSE E., Taken 1-10-84 in Duluth, MN (separate)
	190 DEPO. OF SALLY H., Taken 12-16-83 in Mpls., MN (separate)
2-10-86	191 MINUTES (DDA/LL) RE: FIRST DAY OF COURT TRIAL: Mr. Pentelovitch moves the admission of Ms. Lynn and Ms. Pine to the bar of this court for purposes of this case only—GRANTED.
2-11-86	192 MINUTES (DDA/LL) RE: CONTINUED COURT TRIAL
2-13-86	193 TRANSCRIPT OF PROCEEDINGS (LPL) RE: Trial held before DDA on 2-10-86, comm. at 9:30 a.m. (separate)
2-12-86	194 MINUTES (DDA/LL) RE: CONTINUED COURT TRIAL
2-13-86	195 MINUTES (DDA/LL) RE: CONTINUED COURT TRIAL
2-17-86	196 TRANSCRIPT OF PROCEEDINGS (LPL) RE: Trial testimony of Paula Wendt held before DDA on 2/10 & 11/86. (separate)
2-18-86	197 MINUTES (DDA/LL) RE: CONTINUED COURT TRIAL
02-19-86	198 MINUTES (Alsop-J; Lindberg-R) Continued Court Trial
	199 TRANSCRIPT OF PROCEEDINGS (LPL) RE: Trial testimony of Judge Allen Oleisky before Judge Alsop on 02-11-86 (separate)
	200 TRANSCRIPT OF PROCEEDINGS (LPL) RE: Trial testimony of Janet Benshoof, before Judge Alsop on 02-10-86 (separate)
2-20-86	201 MINUTES (DDA/LL) RE: CONTINUED COURT TRIAL

DATE	PROCEEDINGS
	202 PARTIAL TRANSCRIPT OF VIDEO DEPOSITION OF JANE HODGSON, M.D., taken 7-11-85 comm. at 10:30 a.m., in Mpls., MN (separate)
	203 PARTIAL TRANSCRIPT OF VIDEO DEPOSITION OF JANE HODGSON, M.D., taken 7-12-85 comm. at 9:30 a.m., in Mpls., MN (separate)
2-28-86	204 TRANSCRIPT OF PROCEEDINGS (LPL) RE: Trial testimony of Susanne Smith held before DDA on 2-19-86. (separate)
	205 TRANSCRIPT OF PROCEEDINGS (LPL) RE: Trial testimony of Henry Peter Albrecht held before DDA on 2-19-86. (separate)
	206 TRANSCRIPT OF PROCEEDINGS (LPL) RE: Trial testimony of Edwin George Widseth held before DDA on 2-19-86. (separate)
3-4-86	207 PLTFFS FEDERAL RULE OF CIVIL PROCEDURE 26(b)(4)(A)(i) STATEMENT
2-24-86	208 MINUTES (DDA/LL) RE: CONTINUED COURT TRIAL
2-25-86	209 MINUTES (DDA/LL) RE: CONTINUED COURT TRIAL
2-26-86	210 MINUTES (DDA/LL) RE: CONTINUED COURT TRIAL
2-27-86	211 MINUTES (DDA/LL) RE: CONTINUED COURT TRIAL
3-4-86	212 MINUTES (DDA/LL) RE: CONTINUED COURT TRIAL
3-5-86	213 MINUTES (DDA/LL) RE: CONTINUED COURT TRIAL
3-6-86	214 MINUTES (DDA/LL) RE: CONTINUED COURT TRIAL

DATE	PROCEEDINGS
3-10-86	215 MINUTES (DDA/LL) RE: CONTINUED COURT TRIAL
3-11-86	216 MINUTES (DDA/LL) RE: CONTINUED COURT TRIAL
3-12-86	217 MINUTES (DDA/LL) RE: CONTINUED COURT TRIAL
3-13-86	218 MINUTES (DDA/LL) RE: CONTINUED COURT TRIAL; Both parties rest. Proposed Findings of fact, conclusions of law and order for judgment to be submitted 4 weeks after receipt of the transcript. REply brief due 2 weeks later. Final arguments to be scheduled at a later date.
3-14-86	219 COURT EXHIBIT LIST (separate)
3-13-86	220 PLTFFS. WITNESS LIST
	221 PLTFFS. FINAL EXHIBIT LIST
	222 DEFTS. AMENDED WITNESS LIST
	223 DEFTS. AMENDED EXHIBIT LIST
4-3-86	224 ORDER (DDA/4-3-86) that the attached caption be substituted in all future filings of the Court. (counsel list attached)
4-11-86	225 AFF. OF NANCY L. HELMICH wi/att exhibits
	226 STIPULATION AS TO THE RECEIPT OF CERTAIN EVIDENCE BY AFFIDAVITS
6-12-86	227 MINUTES (DDA/LL) RE: CONTINUED COURT TRIAL; the court takes the matter under advisement.
11-6-86	228 FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER (DDA/11-6-86) that Minn. Stat. 144.343 (2)-(7) be and the same hereby is declared unconstitutional. That the Clerk enter judgment as follows: IT IS ORDERED,

DATE	PROCEEDINGS
	ADJUDGED, AND DECREED that Minn. Stat. 144.343 (2)-(7) is unconstitutional. IT IS FURTHER Ordered that defendants be and the same here permanently enjoined from enforcing the provisions of Minn. Stat. 144.343 (2)-(7). IT IS FINALLY ORDERED that the following injunction shall issue without security: IT IS ORDERED, ADJUDGED, AND DECREED that defendants are permanently enjoined from enforcing the provisions of Minn Stat 144.343 (2)-(7). (counsel served by Judge's office)
	229 JUDGMENT ENTERED
	230 PERMANENT INJUNCTION (DDA/11-6-86) that upon the court's Order of this date, defts. are permanently enjoined from enforcing the provisions of Minn. Stat. 144.343 (2)-(7). (counsel served by Judge's office)
11-12-86	231 DEFTS. NO/MO FOR PARTIAL STAY OF PERMANENT INJUNCTION ORDER PENDING APPEAL, Ret. before DDA on 11-19-86 at 4:00 p.m.
11-18-86	232 DEFENDANTS' NOTICE OF APPEAL TO THE EIGHTH CIRCUIT COURT OF APPEALS FROM JUDGE ALSOP'S ORDER OF 11-06-86. Delivered two certified copies and one uncertified copy of each of the following to the Court of Appeals—St. Paul office: Defendants' Notice of Appeal, Order (Alsop-J; 11-06-86), Judgment and District Court Clerk' Docket Entries. Copy of Notice of Appeal and Docket Entries mailed to Counsel.
11-24-86	233 PLAINTIFFS' NOTICE OF APPEAL TO THE EIGHTH CIRCUIT COURT OF APPEALS FROM JUDGE ALSOP'S ORDER OF 11-06-86.

DATE

PROCEEDINGS

Delivered two certified copies and one uncertified copy of each of the following to the Court of Appeals—St. Paul office: Plaintiffs' Notice of Appeal, Order (Alsop-J; 11-06-86), Judgment and District Court Clerk's Docket Entries. Copy of Notice of Appeal and last page of the docket entries mailed to Counsel.

**Findings of Fact,
Conclusions of Law and Order**

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
THIRD DIVISION

3-81 Civ. 538

JANE HODGSON, M.D.; GORDON DITMANSON, M.D.; ARTHUR HOROWITZ, M.D.; MICHELLE ROE, ALICE ROE, and DIANA ROE, individually and on behalf of all other persons similarly situated; MEADOWBROOK WOMEN'S CLINIC, P.A.; PLANNED PARENTHOOD OF MINNESOTA, a non-profit Minnesota corporation; MIDWEST HEALTH CENTER FOR WOMEN, a non-profit Minnesota corporation,

Plaintiffs,

v.

THE STATE OF MINNESOTA; ALBERT QUIE, as Governor of the State of Minnesota; and WARREN SPANNAUS, as Attorney General of the State of Minnesota,

Defendants.

American Civil Liberties Union Foundation, by JANET BENSHOOF, Esq., New York, New York, and Mackall, Crounse & Moore, by FRANZ P. JEVNE, III, Esq., Minneapolis, Minnesota, appeared for plaintiffs.

WARREN SPANNAUS, Attorney General, State of Minnesota, by KENNETH E. RASCHKE, Esq. and WILLIAM P. DONOHUE, Esq., Special Assistant Attorneys General, St. Paul, Minnesota, appeared for defendants.

The above-entitled matter came before the court upon plaintiff's motion for a preliminary injunction. Briefs were submitted on behalf of all parties, and oral argument was heard. Thereafter, the parties agreed to reopen the record and submitted additional affidavits for the court's consideration. The court, having considered the oral arguments and additional affidavits, together with all files, records and proceedings herein, makes the following:

FINDINGS OF FACT

1. Plaintiffs Jane Hodgson, M.D., Gordon Ditmanson, M.D. and Arthur Horowitz, M.D. are all licensed physicians actively engaged in the practice of medicine in the State of Minnesota in the specialty of obstetrics and gynecology, including the performing of abortions. In their practices they provide abortion services to minors, including: (1) minors who are mature and capable of making a well-informed decision to terminate their pregnancies ("mature minors"); (2) minors who may be deemed immature but for whom an abortion is otherwise in their best interest ("best interest minors"); and (3) minors who are "emancipated" as defined under Minn. Stat. § 144.341 and § 144.342 ("emancipated minors").

2. Plaintiff Meadowbrook Women's Clinic, P.A., is a free-standing medical facility located in Minneapolis, Minnesota, which provides contraceptive services, abortion services and related services to its patients, including pregnancy tests and counseling. In 1980, Meadowbrook Clinic provided approximately 2,000 abortions to minors.

3. Plaintiff Planned Parenthood of Minnesota is a non-profit Minnesota corporation. The Planned Parenthood clinic located in St. Paul provides contraceptive services, first trimester abortion services, and related medical services to its patients, including pregnancy tests and pregnancy counseling. In 1980, it provided abortions to 247 minors.

4. Plaintiff Midwest Health Center for Women is a non-profit Minnesota corporation located in Minneapolis, Minnesota, with a branch clinic located in Duluth, Minnesota. Midwest Health Center provides contraceptive services, abortion services, and related medical services to its patients, including pregnancy tests and counseling. In 1980, it provided abortions to about 1,200 teenagers, many of whom were minors.

5. Alice Roe is a sixteen-year old unemancipated minor who was seven weeks pregnant at the commencement of this action. Alice Roe asserts that she is mature and that notification of her parents of her desire to have an abortion would not be in her best interest.

6. Michelle Roe is a fifteen-year old unemancipated minor who was pregnant at the commencement of this action. She asserts that she is mature and that notification of her parents of her desire to have an abortion would not be in her best interest.

7. Diane Roe is a sixteen-year old unemancipated minor who was eight weeks pregnant at the commencement of this action. Diane Roe asserts that she is mature and that notification of her parents of her desire to have an abortion would not be in her best interest.

8. Nadine T. is a sixteen-year old unemancipated minor who was pregnant at the commencement of this action. Nadine T. asserts that she is mature and that to inform her parents of her desire to have an abortion would not be in her best interest.

9. Defendants are the State of Minnesota, its Governor and Attorney General. The Hennepin County Attorney, as representative of all other Minnesota County Attorneys, has been dismissed as a party by plaintiffs.

10. Defendant Albert Quie is the Governor of the State of Minnesota who, as such, is empowered to administer and enforce Minn. Stat. § 144.343, Subds. 2-7.

11. Defendant Warren Spannaus is the Attorney General of the State of Minnesota who, as such, is responsible for the

interpretation, enforcement and implementation of the laws of the State of Minnesota, including the challenged statute.

12. The 1981 Minnesota Legislature enacted Minn. Laws 1981, Ch. 228, codified at Minn. Stat. § 144.343, Subds. 2-7.

13. This Act, effective August 1, 1981, requires 48 hours written notice to both parents of an unemancipated minor or the guardian or conservator of a woman under guardianship or conservatorship prior to the performance of an abortion on the minor, ward, or conservatee insofar as such notice can be given with the exercise of reasonable diligence.

14. The notice requirement (hereinafter referred to as "Subdivision 2") does not apply where both parents, the guardian or the conservator have consented in writing to the abortion, where prompt action is needed to preserve the life of the woman or where a child reports that she is the victim of abuse or neglect.

15. The Act further provides that if Subdivision 2 is enjoined or restrained by judicial order, then the same notice requirement shall be effective, together with an alternative procedure whereby a pregnant woman may secure without notice to her parents a judicial determination that she is mature and capable of giving informed consent to an abortion or, if she is not mature, that the performance of an abortion without notice to her parents would be in her best interest (hereinafter referred to as "Subdivision 6").

16. The plaintiffs have asserted a claim in this court challenging the validity of Minn. Stat. § 144.343, Subds. 2-7 under 42 U.S.C. § 1983, the First and Fourteenth Amendments to the United States Constitution, and Articles III § 1 and V § 7 of the Minnesota Constitution.

17. Plaintiffs challenge both Subdivision 2 and Subdivision 6 on the grounds that both present an unreasonable burden upon the right of a pregnant woman to determine, in consultation with her physician, whether or not to terminate her pregnancy by means of abortion. Subdivision 2 of the Act is challenged as unconstitutional on its face. Subdivision 6 of the Act is chal-

lenged both on its face and as applied. Plaintiffs raise only the rights and interests of minors and do not address women who are under guardianship or conservatorship.

18. By Order of July 31, 1981, this court temporarily restrained enforcement of Subdivision 2 of the Act but did not restrain enforcement of Subdivision 6 of the Act.

19. Plaintiffs performed a combined total of approximately 90% of the 19,028 abortions performed in Minnesota in 1980. Of these, 2,733 (14.4%) were performed for minors. 409 (19%) of these minors were from states other than the State of Minnesota, or from Canada. Approximately 84% of the minor abortion patients in Minnesota are age 16 or 17.

20. The majority of minors who received abortion services prior to August 1, 1981 did so without notifying both their parents. The study of expert Dr. Ronald Anderson demonstrated that 55% of minors had not notified either living parent that they were obtaining an abortion, and 20% had notified one parent; therefore, approximately 75% of minors had not told both parents.

21. Subdivision 2 of the Act provides for a 48-hour waiting period after parental notice is given. 48 hours is a reasonable period of notice to allow for parents to aid, counsel, advise and assist their minor daughter in connection with the determination to undergo abortion or to provide the physician with information which may be relevant to the medical judgments involved.

22. As a result of the Temporary Restraining Order issued by this court on July 31, 1981, Minn. Stat. § 144.343, Subd. 6, went into effect on August 1, 1981. This is the section of the Act which provides for a judicial by-pass procedure for unemancipated minors who claim to be mature or claim that it is not in their best interest to give parental notification prior to obtaining an abortion.

23. In the county and district courts, procedures have been developed to implement the provisions of Subdivision 6 of the Act. Specifically, in Hennepin, Ramsey and St. Louis Counties,

the three most populous counties in the state, very detailed procedures have been developed to intake and process, in a confidential and expeditious manner, the large volume of cases expected to occur in those counties.

24. In Hennepin County, a 24-hour child protection hot-line telephone number has been established. The hot-line screens for potential public defender referrals and public defenders are appointed automatically without a court order. The child protection unit and the public defender have 24-hour access to the judges of the district court. Form petitions and a form for findings of fact have been prepared and are available. The hearings are scheduled on a separate, confidential calendar and are heard on an expeditious basis. When necessary, hearings are held on an emergency basis.

25. In Ramsey County there is also a 24-hour child protection intake number. The child protection unit determines the urgency of the matter based on the representations of the caller and refers the matter to the public defender. The public defender is available on a 24-hour a day basis and has access to district court judges on a 24-hour a day basis. Form petitions and a form for findings of fact have been prepared and are available. Matters are scheduled in court on a separate, confidential calendar on an expedited basis and, when necessary, on an emergency basis.

26. In St. Louis County access to the courts is through the chief deputy clerk of the probate family division of the county court who is available to the one major abortion provider in the Duluth area and the public defender on a 24-hour a day basis. He has access to Probate Judge Martin and three other judges on a 24-hour a day basis who are available to hear these matters. The procedures utilized in St. Louis County are based on the procedures in Hennepin and Ramsey Counties, and the St. Louis County courts have developed a form for a petition and a form for findings of fact. All files in such cases are confidential and are kept separate from other juvenile court records.

27. In each of those counties, the affidavits of the court personnel indicate that no problems have been encountered in

assuring petitioners anonymous and expeditious handling of their petitions and hearings.

28. With respect to the non-metropolitan counties, efforts have been made to assure that court personnel are aware of the terms of the law and the procedures used in the metropolitan counties. A survey of the non-metropolitan judicial districts of Minnesota indicates that at the time of submission of the motion in this action, few inquiries regarding hearings had been received and only eight petitions had been filed. The prevalent use of the State's metropolitan communities for the obtaining of abortion services together with the newness of the Act combine to provide only minimal experience of its application in non-metropolitan courts. Except for two isolated instances, which are strongly disputed by defendants, plaintiffs have failed to demonstrate that the Act has not been properly administered by non-metropolitan court personnel. Although the problem of confidentiality is more acute in non-metropolitan counties, all such counties have established procedures for handling petitions. Court officials are aware of the problems and do not foresee any difficulty in providing confidential and expeditious treatment of petitions under Subdivision 6. This court is confident that the non-metropolitan court officials of the State are equally as conscientious as their metropolitan counterparts in the exercise of their constitutionally mandated obligation to faithfully administer and apply the Act.

29. As a practical matter, over 90% of the abortions performed in Minnesota and virtually all abortions on minors take place at facilities located in Ramsey, Hennepin and St. Louis Counties.

30. During the first three months of the operation of Subdivision 6, approximately 122 requests or petitions for hearing were filed in the Minnesota courts. All but eight of these requests or petitions were filed in Ramsey (22 petitions), Hennepin (83 petitions), or St. Louis County (9 petitions).

31. In all of these cases hearings were held and decisions were made within 24 to 48 hours of the petition or on the day requested by the petitioner's attorney. When requested by peti-

tioners, hearings are held on an even more expedited basis. In at least one case, the hearing was held and a decision was rendered within four hours of the filing of the petition.

32. In each of these cases, the hearings were conducted in a confidential and anonymous manner. The hearings are either held in the chambers of the judge or in closed juvenile court rooms.

33. At the time of the submission of this motion, there had been no appeals from any of the decisions.

34. The Minnesota Supreme Court has issued an order indicating that all petitions under Minn. Stat. § 144.343, Subd. 6, will initially be filed in and considered by the county court or in the case of Hennepin and Ramsey Counties, in the district court juvenile division. In addition, the Minnesota Supreme Court has ordered that all appeals shall be on the record to one judge of the district court, including the district court of Hennepin and Ramsey Counties.

35. While plaintiffs' affidavits indicate some difficulty in obtaining information and scheduling hearings, these difficulties appear to have occurred primarily within the first week of implementing the statute. These problems do not seem to have persisted, and the affidavits of the court personnel involved do not corroborate the existence of problems.

36. Plaintiffs' affidavits indicate that their primary complaint about the procedure is the delay which occurs because they must appear before the judge. However, the procedure will inevitably require some time for the filing of the petition, hearing and decision to occur. The delay of 24-48 hours from request to decision experienced in most cases is not undue, particularly in light of the systems demonstrated ability to hear cases on an emergency basis in very short periods of time.

37. The operation of the court by-pass procedure as provided in Minn. Stat. § 144.343, Subd. 6, does not unduly burden the abortion decision of unemancipated minors.

CONCLUSIONS OF LAW

1. The court has jurisdiction of the above-entitled action pursuant to 28 U.S.C. §§ 1331, 1343(3), and 1343(4).

2. It is probable that plaintiffs will be successful in their challenge to the provisions of Minn. Stat. § 144.343, Subd. 2, because this statutory section probably will be determined to be unconstitutional on its face. *See Planned Parenthood Association of Kansas City, Missouri v. Ashcroft*, 655 F.2d 848 (8th Cir. 1981).

3. Plaintiffs will suffer irreparable injury if the defendants are not enjoined from enforcing the provisions of Minn. Stat. § 144.343, Subd. 2.

4. The defendants, their agents, employees, and those working in concert with them, should be enjoined and prohibited from enforcing the provisions of Minn. Stat. § 144.343, Subd. 2.

5. It is probable that plaintiffs will not be successful in their facial challenge to the provisions of Minn. Stat. § 144.343, Subds. 2-7, because with Subd. 6 effective, these statutory sections probably will not be determined to be unconstitutional on their face. *See Planned Parenthood Association of Kansas City, Missouri v. Ashcroft*, *supra*, at 15-20.

6. On the present record, it appears probable that plaintiffs will not be successful in their challenge to the provisions of Minn. Stat. § 144.343, Subds. 2-7, as applied because based on the procedures now in effect in the Minnesota county and district courts, the by-pass procedure of Subdivision 6 is operating effectively and not unduly burdening the abortion decisions of unemancipated minors and, therefore, will probably not be determined to be unconstitutional. *See Planned Parenthood Association of Kansas City Missouri v. Ashcroft*, *supra*.

7. The court should not enjoin the enforcement of Minn. Stat. § 144.343, Subds. 2-7.

Upon the foregoing,

IT IS ORDERED That the motion of the plaintiffs for a preliminary injunction is granted in part and denied in part.

IT IS FURTHER ORDERED That a preliminary injunction should issue, without security therefor, as follows:

Pursuant to the Findings of Fact, Conclusions of Law and Order of the court dated March 22, 1982,

IT IS ORDERED That, until further order of this court, the defendants the State of Minnesota, Albert Quie, and Warren Spannaus, their agents, employees, and those working in concert with them, are ENJOINED and PROHIBITED from enforcing the provisions of Minn. Stat. § 144.343, Subd. 2, except insofar as it is enforced in accordance with Minn. Stat. § 144.343, Subd. 6, as though a paragraph (c) were incorporated into Minn. Stat. § 144.343, Subd. 2.

DATED: March 22, 1982.

/s/ DONALD D. ALSOP
Donald D. Alsop
United States District Judge

Preliminary Injunction

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
THIRD DIVISION
3-81 Civ. 538

JANE HODGSON, M.D.; GORDON DITMANSON, M.D.;
ARTHUR HOROWITZ, M.D.; MICHELLE ROE, ALICE ROE,
and DIANA ROE, individually and on behalf of all other persons similarly situated; MEADOWBROOK WOMEN'S CLINIC, P.A.; PLANNED PARENTHOOD OF MINNESOTA, a non-profit Minnesota corporation; MIDWEST HEALTH CENTER FOR WOMEN, a non-profit Minnesota corporation,

Plaintiffs,

v.

THE STATE OF MINNESOTA; ALBERT QUIE, as Governor of the State of Minnesota; and WARREN SPANNAUS, as Attorney General of the State of Minnesota,

Defendants.

Pursuant to the Findings of Fact, Conclusions of Law and Order of the court dated March 22, 1982,

IT IS ORDERED That, until further order of this court, the defendants the State of Minnesota, Albert Quie, and Warren Spannaus, their agents, employees, and those working in concert with them, are ENJOINED and PROHIBITED from enforcing the provisions of Minn. Stat. § 144.343, Subd. 2, except insofar as it is enforced in accordance with Minn. Stat. § 144.343, Subd. 6, as though a paragraph (c) were incorporated into Minn. Stat. § 144.343, Subd. 2.

J.A. 32

DATED: March 22, 1982.

/s/ DONALD D. ALSOP
Donald D. Alsop
United States District Judge

J.A. 33

Amended Complaint

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
THIRD DIVISION
Civil No. 3-81-538

JANE HODGSON, M.D.; GORDON DITMANSON, M.D.;
ARTHUR HOROWITZ, M.D.; MICHELLE ROE, ALICE ROE,
DIANA ROE, NADINE T., JANET T., and ELLEN Z. individ-
ually and on behalf of all other persons similarly situated;
LAUREN Z.; MEADOWBROOK WOMEN'S CLINIC, P.A.,
PLANNED PARENTHOOD OF MINNESOTA, a nonprofit Min-
nesota corporation; MIDWEST HEALTH CENTER FOR
WOMEN, P.A., a nonprofit Minnesota corporation;
WOMEN'S HEALTH CENTER OF DULUTH, P.A., a non-
profit Minnesota corporation,
Plaintiffs,

v.

THE STATE OF MINNESOTA; RUDY PERPICH, as Governor of
the State of Minnesota; HUBERT H. HUMPHREY, III, as
Attorney General of the State of Minnesota,
Defendants.

I. PRELIMINARY STATEMENT

1. This is a civil action brought under 42 U.S.C. § 1983 and the United States and Minnesota Constitutions seeking declaratory and injunctive relief against Minnesota Session Laws, 1981, Chapter 228 (hereinafter cited as Minn. Stat. § 144.343(2-7)), which went into effect on August 1, 1981. (A copy of the statute is attached hereto as Exhibit A.) Minn. Stat.

§ 144.343(2) through (5) require, in main part, that, with certain narrow exceptions, all doctors in Minnesota must notify both parents of a minor patient in writing before an abortion can be performed on the minor, or suffer criminal and civil penalties. Plaintiffs seek to invalidate this mandatory notification and the attendant mandatory waiting period imposed by these sections on the ground that they violate the First, Fourth, Fifth, Ninth, and Fourteenth Amendments to the United States Constitution and Article II § 7 of the Minnesota Constitution.

2. Minn. Stat. § 144.343(6), which becomes operative in the event that subsection (2) is enjoined, sets forth a court procedure for minors to secure court authorization for an abortion without parental notification. On July 31, 1981, this Court enjoined the operation of Minn. Stat. § 144.343(2), thus triggering the operation of the court procedures. Plaintiffs seek to invalidate and enjoin the court procedure requirement on the ground that, on its face, and as applied to minors and their families in Minnesota, it violates the First and Fourteenth Amendments to the United States Constitution, Article V § 7 of the Minnesota Constitution, and Article III § 1 of the Minnesota Constitution.

II. JURISDICTION

3. This Court has jurisdiction of this action by virtue of 28 U.S.C. §§ 1343(3) and 1343(4), authorizing jurisdiction of claims brought under 42 U.S.C. § 1983 to enforce rights guaranteed by the United States Constitution. This Court also has jurisdiction of this action pursuant to 28 U.S.C. § 1331 as a claim arising under the United States Constitution. The Court has the power to hear those claims asserted under the Constitution of the State of Minnesota under the principles of pendent jurisdiction. This action also seeks declaratory judgment relief pursuant to 28 U.S.C. §§ 2201 and 2202.

III. PARTIES

4. Plaintiff JANE HODGSON, M.D., is a citizen of the United States and resides in the State of Minnesota. She is a physician licensed to practice medicine in the State of Minnesota and is actively engaged in the practice of obstetrics and gynecology, including the performance of abortions, in Minneapolis, Minnesota, and in Duluth, Minnesota. At the time of the filing of the original complaint Dr. Hodgson was Medical Director of Planned Parenthood of Minnesota. She is currently medical director of the Women's Health Center in Duluth. Dr. Hodgson brings this action on her own behalf and on behalf of her minor patients, among whom are teenagers for whom it is medically inadvisable to notify both parents because of hostile home situations or other reasons; teenagers who are mature and capable of making a well-informed decision to terminate their pregnancy, for some of whom it would be medically inadvisable to notify both parents, such as her three patient plaintiffs Alice Roe, Michelle Roe, and Diana Roe; and minors who have special health problems making abortion medically necessary, but whom Dr. Hodgson cannot certify with any certainty as about to die within three days, as required by Minn. Stat. § 144.343(4).

5. Plaintiff GORDON DITMANSON, M.D., is a citizen of the United States and resides in the State of Minnesota. He is a physician licensed to practice medicine in the State of Minnesota and is actively engaged in the practice of obstetrics and gynecology, including the performance of abortions, in St. Paul, Minnesota. Dr. Ditmanson is Director of the Fertility Control Center at St. Paul Ramsey Hospital located in St. Paul, Minnesota. Dr. Ditmanson brings this action on his own behalf and on behalf of his minor patients, among whom are teenagers for whom it is medically inadvisable to notify both parents because of hostile home situations or other reasons; teenagers who are mature and capable of making a well-informed decision to terminate their pregnancy, for some of whom it would be medically inadvisable to notify both parents; and minors who have special health problems making abortion medically necessary,

but whom Dr. Ditmanson cannot certify with any certainty as about to die within three days, as required by Minn. Stat. § 144.343(4).

6. Plaintiff ARTHUR HOROWITZ, M.D., is a citizen of the United States and resides in the State of Minnesota. He is a physician licensed to practice medicine in the State of Minnesota and is actively engaged in the practice of obstetrics and gynecology, including the performance of abortions, in Minneapolis, Minnesota. Dr. Horowitz brings this action on his own behalf and on behalf of his teenage patients, among whom are teenagers for whom it is medically inadvisable to notify both parents because of hostile home situations or other reasons; teenagers who are mature and capable of making a well-informed decision to terminate their pregnancy, for some of whom it would be medically inadvisable to notify their parents; and minors who have special health problems making an abortion medically necessary but whom Dr. Horowitz cannot certify as about to die within three days as required by Minn. Stat. § 144.343(4).

7. Plaintiff ALICE ROE is a sixteen-year-old, unmarried minor who lives at home. At the time of the filing of the original complaint she was seven weeks pregnant. She is mature and capable of making an informed decision to have an abortion and so decided in consultation with her physician, Dr. Jane Hodgson. Dr. Jane Hodgson agreed with Alice Roe that an abortion was medically indicated for her unplanned and unwanted pregnancy and that notification of both of her parents was likely to cause emotional harm as well as possible physical abuse.

8. At the time of the filing of the original complaint Plaintiff DIANA ROE was a sixteen-year-old unmarried minor living at home who was eight weeks pregnant. She is mature and capable of making an informed decision to have an abortion and so decided in consultation with her physician, Dr. Jane Hodgson. Dr. Hodgson agreed with Diana Roe that she was mature and that an abortion was medically indicated for her unplanned and unwanted pregnancy. Diana Roe and her doctor agreed that

notification of both parents would be medically inadvisable since it could have resulted in serious harm to her.

9. At the time of the filing of the original complaint Plaintiff MICHELLE ROE was a fifteen-year-old unmarried minor living at home with both of her parents. She is mature and capable of making an informed decision to have an abortion and so decided in consultation with her physician Dr. Jane Hodgson. Michelle Roe felt notification would change her entire life and destroy her future.

10. At the time of the filing of an amended complaint on August 7, 1981, Plaintiff NADINE T. was a sixteen-year-old unmarried minor living at home with her parents. She is mature and capable of making an informed decision to have an abortion and so decided in consultation with her physician and counselor at the Meadowbrook clinic. Nadine T. felt that telling either parent would seriously disrupt her family life and decided to seek a court order. Because of the delay Nadine T. encountered in obtaining a court authorization, she was forced to postpone her abortion until the following week, or risk compromising her privacy. Minn. Stat. § 144.343(6) created significant burdens for Nadine by delaying her abortion almost a full week.

11. At the time of the filing of an amended complaint on September 17, 1981, Plaintiff JANET T. was a sixteen-year-old unmarried minor. She is a mature minor who is capable of making an informed decision to have an abortion. Both Janet and her mother felt that it would have been very destructive to them if Janet's father was notified. They elected to go to court. The local judge, however, refused to issue an order certifying her as mature, although he told her that he thought she was and that notification of her father would not be in her best interest. His refusal forced Janet T. and her mother to seek an order in Hennepin County one week later. Although she was granted an order, the delay caused Janet T.'s pregnancy to advance beyond the legal limit for obtaining an abortion in Minnesota. Not having enough time to make travel arrangements or enough money to get to New York to obtain an abortion, Janet T. was never

able to exercise her right to choose abortion and was forced to continue her pregnancy.

13. Plaintiff ELLEN Z. is a seventeen-year-old unmarried minor who lives at home. Her parents are divorced and her mother has legal custody. She is mature and capable of making an informed decision. Ellen's mother agrees that she is mature, that abortion is her best alternative, and that notifying Ellen's father as required by Minn. Stat. § 144.343(2) would be emotionally devastating for Ellen and her mother and would destroy the tenuous relationship Ellen and her father are just now beginning to establish. Ellen and her mother decided to go to court so as to avoid having to notify her father. Because of Minn. Stat. § 144.343(6), she will have to wait 5 days for her court appearance and abortion, will have to miss a second day of school and endure severe emotional distress while waiting for all this to take place.

14. Plaintiffs ALICE ROE, DIANA ROE, MICHELLE ROE, NADINE T., JANET T. and ELLEN Z. wish to sue under pseudonyms to protect their privacy rights. Plaintiffs Alice Roe, Diana Roe, Michelle Roe, Nadine T., Janet T. and Ellen Z. seek to represent themselves and other minors similarly situated who are mature and capable of making their own decisions, and for whom mandatory notification would result in irreparable harm to their privacy rights, their mental and physical health, or their family relationships.

15. Plaintiff LAUREN Z. is the mother of Ellen Z.. Lauren Z.'s husband abandoned her when Ellen was approximately three years old. Lauren has legal custody of Ellen and has provided all support for Ellen since her husband left. Lauren, as a result of the statute, is forced to be involved with her ex-husband, and forced to communicate with him since he will call her when he receives the notification. She must deal not only with Ellen's emotional distress, but also her own and her other daughters' stress. Lauren will also have to miss another day of work and pay to accompany her daughter to court and the clinic. Minn. Stat. § 144.343(2-7) has undermined and interfered with Lauren's family life and her efforts to raise her

daughter to be an independent and responsible decisionmaker. Plaintiff Lauren Z. wishes to sue under a pseudonym to protect her privacy rights and those of her daughter.

16. Plaintiff MEADOWBROOK WOMEN'S CLINIC, P.A., is a freestanding medical facility whose function is to provide birth control, abortion services, and related medical services to its patients, including pregnancy tests and pregnancy counseling. Meadowbrook Clinic provides abortions to minors and in 1980 provided approximately 2,000 abortions for teenagers under eighteen, over half of whom had the abortion without the knowledge of both parents. Meadowbrook raises its own claims and the claims of its minor patients, among whom are immature minors for whom it would be medically inadvisable to notify both parents; some minor patients who may be considered emancipated under Minn. Stat. § 144.343(4); and mature minors capable of making the abortion decision on their own, for some of whom mandatory notification would be against their best interests and violative of their privacy. This corporation has potential criminal liability under this statute, both in its capacity as an agent for the physician and as an accomplice.

17. Plaintiff PLANNED PARENTHOOD OF MINNESOTA is a non-profit Minnesota corporation which operates eleven family planning clinics throughout the State of Minnesota and a network of 300 private physicians who work under contract and provide birth control and related medical services to patients, including pregnancy tests and pregnancy counseling. The Planned Parenthood clinic located in St. Paul also provides abortion services, and in 1980 provided abortions to 247 teenagers under the age of eighteen, over half of whom received the abortion service without electing to notify both of their parents. Planned Parenthood raises claims on its own behalf and the claims of its minor patients, among whom are immature minors for whom it would be medically inadvisable to notify both parents; some minor patients who may be considered emancipated under Minn. Stat. § 144.343(4); and mature minors capable of making the abortion decision on their own, for some of whom mandatory notification would be contrary to their best interests and violative of their privacy. This corporation has potential

criminal liability under this statute both in its capacity as an agent for the physician and as an accomplice.

18. Plaintiff MIDWEST HEALTH CENTER FOR WOMEN is a non-profit Minnesota corporation located in Minneapolis, Minnesota. At the time of the filing of the original complaint it had a branch clinic, now separately incorporated, located in Duluth, Minnesota. Midwest Health Center provides abortion services as well as birth control and related medical services to its patients, including pregnancy tests and pregnancy counseling. Midwest Health Center provides abortions to minors and in 1980 provided approximately 1,200 abortions for teenagers (including 18 and 19 year olds), over half of whom had the abortion without the knowledge of both parents. Midwest Health Center raises their own claims and the claims of their minor patients, among whom are immature minors for whom it would be medically inadvisable to notify both parents; some minor patients who may be emancipated under Minnesota Statutes § 144.343, Subdivision 4; and mature minors capable of making the abortion decision on their own, for some of whom mandatory notification would be contrary to their best interests and violative of their privacy. This corporation has potential criminal liability under this Statute both in its capacity as an agent for the physician and as an accomplice.

19. Plaintiff WOMEN'S HEALTH CENTER OF DULUTH, P.A. located in Duluth, Minnesota was formally a branch of Midwest Health Center for Women. Through a separation agreement with Midwest Health Center for Women it became an independent clinic and was organized as a Minnesota professional and Minnesota non-profit corporation in March of 1983. The center provides abortion services as well as birth control and related medical services to its patients, including pregnancy tests and pregnancy counseling. The Women's Health Center provides abortions to minors and since March '83 has provided approximately 92 abortions for teenagers, approximately 50 of whom went to court so as to avoid notification of their parents. The Women's Health Center raises its own claims and the claims of its minor patients. This corporation has potential

criminal liability under this Statute both in its capacity as an agent for the physician and as an accomplice.

19. Defendant RUDY PERPICH is Governor of the State of Minnesota and, as such, is empowered to administer and enforce the statute. He is charged under the Constitution of the State of Minnesota to take care that the laws of the State of Minnesota are faithfully executed, including Minn. Stat. § 144.343(2-7), which are challenged here for conflicting with the Constitutions of the United States and Minnesota. Defendant Perpich is sued in his official capacity.

20. Defendant HUBERT H. HUMPHREY, III is the Attorney General of the State of Minnesota who, as such, is responsible for interpretation, enforcement, and implementation of the laws of the State of Minnesota, including Minn. Stat. § 144.343(2-7), which are challenged herein. Defendant Humphrey is sued in his official capacity.

IV. CLASS ACTION ALLEGATIONS

21. Plaintiffs Michelle Roe, Alice Roe, Diana Roe, Nadine T., Janet T. and Ellen sue on their own behalf and on behalf of the entire class of pregnant or potentially pregnant minors who are mature and capable of making a well-informed decision, in consultation with their physicians, to have an abortion, but whose right to privacy will be unduly burdened by Minn. Stat. § 144.343(2-7). The class includes those minors for whom it is unclear whether or not they are "emancipated" as excepted under Minn. Stat. § 144.343(4); those minors who have hostile home situations and for whom notification would not be in their best interests or those of their families; those minors who have health problems which any delay would exacerbate; and those minors whose physicians find it medically inadvisable for both parents to be notified.

22. Should Minn. Stat. § 144.343(2) be enjoined by this Court, Plaintiffs Michelle Roe, Alice Roe, Diana Roe, Nadine T., Janet T., and Ellen Z. sue on their own behalf and on behalf of the entire class of pregnant or potentially pregnant minors

who are mature and capable of making a well-informed decision in consultation with their physicians to have an abortion, and for whom the procedure set forth in Minn. Stat. § 144.343(6), is on its face and as applied, burdensome, and an obstacle to the exercise of their right to privacy, as well as a danger to their lives and health because of the delay created thereby.

23. This action may be maintained as a class action on behalf of the class of minors under Rule 23(b)(1)(A) and under Rule 23(b)(1)(B) of the Federal Rules of Civil Procedure; because the prosecution of separate actions by individual members of the class would, as a practical matter, be dispositive of the individual interests of the other members not parties to the adjudication or substantially impair or impede their ability to protect their interests; and there is a risk of inconsistent or varying adjudication with respect to the plaintiff class which would establish incompatible standards of conduct for the defendants who are presently obligated to enforce this statute if it is not enjoined.

24. Prosecution is proper under Rule 23(B)(2) because the parties opposing the class have acted or will act on grounds generally applicable to the class, thereby making appropriate final injunctive relief and corresponding declaratory relief with respect to the class as a whole.

25. The class of minor women is so numerous that joinder of all members is impracticable.

26. The named minor plaintiffs will fairly and adequately represent the interests of the class of minors. Their lawyers have extensive experience in litigation involving constitutional rights, particularly in the field of family planning and abortion. Plaintiffs and their attorneys are prepared to carry forward the claims of the representative parties to final judgment and to protect the interest of all members of the class of minor women.

27. The questions of law and fact which named plaintiffs seek to litigate, in particular the legality and constitutionality of Subdivisions 2-7 of Minnesota Statutes § 144.343, on its face

and as applied, are common to the class of minors they seek to represent.

V. FACTUAL ALLEGATIONS

A. History of the case

28. In May, 1981, the Minnesota Legislature amended Minnesota Statutes § 144.343, adding Sections 2-7, which require, under criminal penalty, that doctors who perform abortions on unemancipated minors in Minnesota, with certain exceptions, must notify both parents of the minor in writing of the pending operation.

29. On September 18, 1981, Judge Alsop granted an order for class certification to include all unemancipated pregnant mature minors seeking abortions in Minnesota who have adequate capacity to give informed consent to abortion but who do not want to involve their parents. The court also granted an order for intervention of Janet T., an unemancipated minor suing under a pseudonym. (Alsop, J., 9-18-81)

30. On July 31, 1981 this court granted a temporary restraining order enjoining the enforcement of Minnesota Statutes § 144.343(2) (*Hodgson v. State of Minnesota*, 3-81 Civ. 538 (D. Minn., July 31, 1981). And, on August 31, 1981 this court granted an order, (Alsop, J. - 9-18-81) for intervention of Nadine T., an unemancipated minor suing under pseudonym.

31. On March 22, 1982, this court granted in part and denied in part plaintiffs' motion for a preliminary injunction. The court enjoined and prohibited defendants from enforcing the provisions of Minn. Stat. § 144.343(2), except insofar as it was enforced in accordance with subdivision 6. *Hodgson v. State of Minnesota*, 3-81 Civ. 538 (D. Minn., March 22, 1982).

B. The Statute

32. Subdivision 2 of § 144.343 requires both parents be notified, unless both have consented, even if the parents are divorced or separated. Subdivision 2 severely restricts minors'

access to safe, legal abortion in Minnesota, and interferes with the privacy and First Amendment rights of single-parent families.

33. No parental notification is required for minors who seek medical treatment other than abortion for their pregnancies, including caesarean sections or other major surgery. No parental notification is required for treatment of venereal disease or drug abuse.

34. Minn. Stat. § 144.346 authorizes physicians to give notice to parents of minors, if the doctor feels that failure to inform the parent would jeopardize the health of the minor patient. This Section is repealed by Sections 2-7 of § 144.343 insofar as abortion services are concerned but is still applicable as applied to all other minors giving consent to health services pursuant to Minn. Stat. § 144.342, or § 144.343(1).

35. The legislative purpose of these amendments was to restrict minors' access to abortion services to the greatest extent possible in order to protect fetal life.

36. Minn. Stat. § 144.343(2), requires that no abortion shall be performed upon an unemancipated minor or upon a woman for whom a guardian or conservator has been appointed until 48 hours after a written notice of the pending operation has been delivered in a certain specified manner. If delivery is by certified mail, the 48 hours is to run from 12:00 noon on the next day on which regular mail delivery takes place, subsequent to mailing (Minn. Stat. § 144.343(2)(b)). This waiting period of 72 hours or more adds on to the delay that minors may experience in seeking help for their pregnancies, coupled with the delay caused to minors living in rural areas who must travel to the Twin Cities or Duluth areas for abortion services. The forced waiting period presents an undue burden upon minors' right to abortion services by increasing the health and life risks to plaintiffs and, for some minors, foreclosing the abortion option altogether.

37. Implementation of Minn. Stat. § 144.343(2-7) has added to the cost burden upon the plaintiff class since delays can cause

increased cost for the procedure; costs of second trimester procedures exceed those for first trimester procedures, and some minors have to pay the expense of two separate trips. Implementation has increased stress and anxiety and, for some teenagers destroyed the privacy of their decision, or foreclosed the abortion option altogether.

38. Although Minn. Stat. § 144.343(4)(c) provides that a pregnant minor who declares she is a victim of intra-familial sexual abuse, neglect, or physical abuse which has been reported will be an exception to the notification requirement, this statute does not exempt members of plaintiff class who may have reason to believe that their parents will abuse them, but whose parents have never been reported for such. Nor does this statute exempt members of plaintiff class who are victims of rape, even if it has been reported.

39. Although Minn. Stat. § 144.343(4)(a) provides that a doctor may forego notification if the doctor can certify that the minor would die within three days, it is impossible to make this type of certification with any degree of certainty. It will certainly not help those members of plaintiff class who have health problems that would be exacerbated by the delays caused by Minn. Stat. § 144.343(2-7).

40. Subdivision 6 provides that, if Subdivision 2 of the law is ever enjoined, a court bypass option for those minors who elect not to have both parents notified will become operative.

41. Minn. Stat. § 144.343(6)(c)(i) holds that a court of "competent" jurisdiction can authorize a physician to perform the abortion if the judge determines that the pregnant woman is mature and capable of giving informed consent to the abortion. If the judge determines the pregnant woman is not mature or capable of giving informed consent, the judge may authorize the abortion without notification to her parents if her "best interests" would be served.

42. Although this section provides that proceedings should be in a court of "competent jurisdiction," no court is specified to have such jurisdiction. Although this section states in para-

graph (c)(iii) that proceedings shall be confidential and given precedence over other pending matters, no specific provisions for the maintenance of confidentiality or the establishing of such precedence are specified.

43. Although this statute guarantees an expedited, confidential appeal if a woman is denied an order authorizing an abortion, the statute contains no language implementing this guarantee, and in fact the Supreme Court of Minnesota ordered that the only appeal is to a district court judge, making the right to appeal a nullity since in most instances such appeal would be only to a court of the same level.

44. The court procedure outlined in Minn. Stat. § 144.343(6) has not been implemented or enforced by the Minnesota State Office of Court Administration. The following facts have been observed: although this statute provides that, for the purpose of filing the petition or bringing an appeal, the court shall be open to a pregnant minor 24 hours a day, seven days a week, such access has never been provided. Minors' petitions are in fact heard in only 3 of the 87 counties, only two or three days a week, with no access on nights or weekends when minors have a higher assurance of privacy. Upon information and belief, in some counties on certain days a member of plaintiff class would have to travel over fifty miles to locate a sitting judge. In some of the counties in Minnesota, there are no legal aid or public defender offices, nor is there any court-appointed counsel apparatus to provide representation as required by the statute. No extension of the regular court hours of 8:30 to 4:30 has occurred to comply with Minn. Stat. § 144.343(6).

45. Although plaintiff doctors desire to give complete, safe, confidential and proper advice and treatment to their teenage patients regarding the abortion decision, they are prevented from doing so and are restricted in their right to practice medicine consistent with their best medical judgment by the challenged sections.

46. Plaintiffs Planned Parenthood of Minnesota, Meadowbrook Clinic, and Midwest Services for Women of Minneapolis, and Women's Health Clinic of Duluth, desire to give

complete, safe, confidential and proper advice and treatment to their minor patients regarding the abortion decision. They are prevented from doing so by the challenged sections. Many of the patients of these clinics will not seek abortion services if the confidentiality of their relationship with their physician will be breached by clinic personnel acting under the statute.

47. Plaintiff physicians and plaintiff clinics and their employees may be harassed, threatened, and injured by some parents who have been notified of the impending abortion, and who will take such steps to prevent the procedure. They also may be subjected to civil liability or criminal charges if they do not reveal the patient's whereabouts or the time and location of the abortion procedure. Mandatory parental notification will have a chilling effect on the willingness of doctors in Minnesota to perform abortions for plaintiff class and will reduce access to this medical service.

48. Plaintiffs Diana Roe, Michelle Roe, Alice Roe, Nadine T., Janet T. and Ellen Z. and the class they represent have had increased health and life risks due to delays, have been forced to carry their unwanted pregnancies to term, have had to seek illegal abortions, or to go through a traumatic and burdensome court proceeding, increasing risks to their lives and health.

49. Plaintiff Lauren Z. as the mother of a pregnant minor and single parent head of a family will be forced to communicate with her ex-husband, to bear the burdens of the stress caused to her other children, and to miss work and suffer financial loss in order to go to court to avoid notification of her ex-husband.

VI. FIRST CAUSE OF ACTION: FEDERAL DUE PROCESS CLAIMS

50. The challenged sections deprive plaintiff doctors, clinics and their patients, and plaintiff class of minors of the following liberties without due process of law, in violation of the Fourteenth Amendment to the United States Constitution:

(a) Minn. Stat. § 144.343(2-7), on its face and as applied, unduly burdens the rights of minors to freely make and effectuate a decision to terminate a pregnancy, a fundamental right of privacy protected by the First, Fifth, Ninth, and Fourteenth Amendments to the United States Constitution;

(b) Minn. Stat. § 144.343(6), on its face and as applied, unduly burdens the rights of minors to freely make and effectuate a decision to terminate a pregnancy, a fundamental right of privacy protected by the First, Fifth, Ninth, and Fourteenth Amendments to the United States Constitution;

(c) Minn. Stat. § 144.343(2-7) unduly burdens the right of physicians to give, and of women to receive, medical treatment and advice in accordance with accepted medical standards, with regard to the decision whether to terminate a pregnancy, rights guaranteed by the First, Fifth, Ninth, and Fourteenth Amendments to the United States Constitution;

(d) Minn. Stat. § 144.343(2-7) unduly burdens the right of plaintiff family planning and abortion clinics, to give confidential counseling services to minors, to treat and refer patients to doctors and to provide abortion services to minors as guaranteed by the Fifth, Fourth, Ninth, and Fourteenth Amendments to the United States Constitution;

(e) Minn. Stat. § 144.343(6) is vague and overbroad in that it fails to give sufficiently detailed judicial procedures. Minn. Stat. § 144.343(6) is overbroad in that nearly 100% of the minors utilizing the procedure are mature or best interests' minors, both of which categories are entitled to full abortion privacy guaranteed under the Fourteenth Amendment to the United States Constitution;

(f) Minn. Stat. § 144.343(2-7) is vague, particularly as to what constitutes "emancipated minor"; "reasonably diligent effort" (Minn. Stat. § 144.343(3)); or "evidence sufficient to convince a careful and prudent person that the

representations of the pregnant woman regarding information necessary to comply with this section are bona fide and true" (Minn. Stat. § 144.343(5)); so that plaintiff doctors, clinics, and clinic personnel are subjected to criminal penalties without clear knowledge of what the law requires in violation of the Fourteenth Amendment to the United States Constitution.

VII. SECOND CAUSE OF ACTION: FEDERAL EQUAL PROTECTION

51. The challenged sections deprive plaintiffs' class of equal protection of the laws in violation of the Fourteenth Amendment to the United States Constitution:

(a) Minn. Stat. § 144.343(2-7) unreasonably singles out and requires parental notification for members of the plaintiff class solely because they seek an abortion, without a compelling state interest, and without requiring parental notification for minors who seek to carry their pregnancies to term or who seek other health care services, in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution;

(b) Minn. Stat. § 144.343(2-7) unreasonably and without a compelling state interest discriminates between those pregnant minor women who are mature and fully informed and capable of making the decision to terminate a pregnancy, and those women who may be deemed emancipated by the state, in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution;

(c) Minn. Stat. § 144.343(2) deprives plaintiff class of equal protection of the laws in violation of the Fourteenth Amendment to the United States Constitution, in that it unreasonably and without a compelling state interest discriminates between minors aged 17 and under who do not have authorization by both parents and who do not fall within the exceptions, by imposing on them a waiting

period of at least 72 hours and probably more, while not imposing a waiting period on all other similarly situated women in the State of Minnesota seeking abortion services.

VIII. THIRD CAUSE OF ACTION:
VIOLATIONS OF PARENT PLAINTIFF'S
FIRST AMENDMENT
AND DUE PROCESS RIGHTS

52. Because Minn. Stat. § 144.343 requires both parents be notified, and makes no exception for one parent families or estranged families, forces communication between parents in violation of the First Amendment, and violates family privacy since in many instances the one parent has legal custody, the statute is unconstitutional. Moreover, it is overbroad since any state interest which arguably exists can be furthered through a one-parent notification requirement.

IX. FOURTH CAUSE OF ACTION:
MINNESOTA STATE CONSTITUTIONAL CLAIMS

53. The challenged sections deprive plaintiffs of their right to due process and privacy as enumerated in paragraphs 53(a) through (f) and equal protection as enumerated in paragraphs 54(a) through (c) under the Minnesota Constitution, Article I, Sections 2, 7, 8, and 10.

54. Minn. Stat. § 144.343(6) delegates to state courts of "competent jurisdiction" the authority to hear petitions for abortions. Such hearings, because they are non-adversarial, are essentially administrative. This delegation of administrative powers to the Minnesota state courts violates Article 3, Section 1 of the Minnesota Constitution.

WHEREFORE, plaintiffs pray that this Court:

- A. Assume jurisdiction of this action;
- B. Certify a plaintiff class of minor women in Minnesota who need to obtain abortion services in accordance with their physician's decision that they are mature and fully informed about the abortion decision, and for whom notification to their parents would violate their right to make this private decision;
- C. Issue a temporary restraining order, preliminary injunction and a permanent injunction, restraining defendants, their employees, agents, and servants from enforcing subdivisions 2 through 7 of Minn. Stat. § 144.343;
- D. Declare the challenged statutes violative of the United States Constitution, the Minnesota State Constitution, and therefore void and of no effect;
- E. Permanently enjoin the operation of Minn. Stat. § 144.343(2-7);
- F. Award plaintiffs their costs and attorneys' fees pursuant to 42 U.S.C. Section 1988; and,
- G. Enter such other and further relief as the Court shall find just and proper.

Respectfully submitted,

JANET BENSHOOF
SUZANNE M. LYNN
NAN D. HUNTER
American Civil Liberties
Union Foundation
132 West 43rd Street
New York, New York 10036
(212) 944-9800

LINDA OJALA
Minnesota Civil Liberties Union
628 Central Avenue
Minneapolis, Minnesota 55414
(612) 378-7627

FRANZ P. JEVNE, III
1600 Twin City Federal Tower
121 South Eighth Street
Minneapolis, Minnesota 55402
(612) 333-1341

Attorneys for Plaintiffs

Amended Answer of Defendants

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
THIRD DIVISION

Court File No. 3-81-538

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PLANNED PARENTHOOD OF MINNESOTA, a nonprofit Min-
nesota corporation; MIDWEST HEALTH CENTER FOR
WOMEN, a nonprofit Minnesota corporation; WOMEN'S
HEALTH CENTER OF DULUTH, P.A., a nonprofit Minne-
sota corporation,

Plaintiffs,

v.

THE STATE OF MINNESOTA; RUDY PERPICH, as Governor of
the State of Minnesota; HUBERT H. HUMPHREY, III, as
Attorney General of the State of Minnesota,

Defendants.

Defendants State of Minnesota, Rudy Perpich and Hubert
H. Humphrey, III, for their joint and Amended Answer to the
Amended Complaint herein, admit, deny and allege as follows:

1. With respect to the allegations of paragraphs 1 and 2,
admit that this is a civil action in which Plaintiffs seek declara-
tory and injunctive relief from the provisions of Minn. Laws
1981, ch. 228, Minn. Stat. § 144.343, subds. 2-7 (hereinafter the
Notification Act), but deny that Plaintiffs possess any claim for
relief under 42 U.S.C. § 1983, the Constitution of the United

States or the Minnesota Constitution. Insofar as these paragraphs purport to paraphrase or characterize the Notification Act, Defendants refer the Court to the official text thereof. Insofar as paragraph 2 purports to paraphrase or characterize a prior Order of the Court in this action, Defendants refer the Court to such Order.

2. With respect to the allegations of paragraph 3, admit that the Court has jurisdiction to hear cases and grant relief in accordance with the cited federal statutes, but deny that Plaintiffs have suffered deprivations under color of state law of any right, privilege or immunity secured by the Constitution or laws of the United States, deny that they possess any claim for relief thereunder and deny that pendent jurisdiction exists with respect to claims asserted under the Minnesota Constitution.

3. With respect to the allegations of paragraphs 4, 5, and 6, admit Jane Hodgson is a citizen of the United States who resides in and is licensed to practice medicine in the State of Minnesota. With respect to the remaining allegations of said paragraphs, allege that they are without knowledge or information sufficient to form a belief concerning the truth or falsity thereof.

4. Allege that they are without knowledge or information sufficient to form a belief concerning the truth or falsity of the allegations of paragraphs 7, 8, 9, 10, 11, 13, 14 and 15.

5. With respect to the allegations of paragraphs 16, 17, 18 and the first paragraph designated 19, admit that Planned Parenthood of Minnesota, Women's Health Center of Duluth, P.A., and Midwest Health Center for Women are Minnesota non-profit corporations, and allege that they are without knowledge or information sufficient to form a belief concerning the truth or falsity of the remaining allegations therein.

6. With respect to the allegations of the second paragraph designated 19, admit that Rudy Perpich is Governor of the State of Minnesota and has, *inter alia*, the general responsibility to take care that the laws of the state are faithfully executed, but deny that he has any direct or specific responsibility for

administration or enforcement of the Notification Act challenged herein.

7. With respect to the allegations of paragraph 20, admit that Hubert Humphrey, III, is Attorney General of the State of Minnesota, but deny that he has any direct or specific responsibility to enforce, implement, or interpret the Notification Act challenged herein.

8. With respect to the allegations of paragraphs 21, 22, 23, 24, 25, 26 and 27:

a. Deny that Plaintiffs Roe, Nadine T., Janet T. and Ellen Z. have the capacity to sue on their own behalf or to act as legal representatives for others.

b. Deny that Plaintiffs are properly representative of all minor women as alleged in paragraphs 24, 25 and 26, and deny that the relief sought by Plaintiffs is in the best interests of all minors.

c. Allege that purported class or classes referred to in paragraphs 21 and 22 are unduly broad and vaguely described, deny that Plaintiffs are representative of all persons so described and deny that the relief sought by Plaintiffs is in the best interests of all persons so described.

d. Deny that this case is a proper class action or that Plaintiffs have met the requirements of Rule 23 of the Federal Rules of Civil Procedure.

9. With respect to the allegations of paragraphs 28, 29, 30, 31, 32, 33 and 34, admit that Minn. Laws 1981, ch. 228, was passed into law in May, 1981, and to the extent that these paragraphs purport to explain, describe or paraphrase the provisions of Minnesota statutes and the Orders of this Court, refer the Court to the official texts thereof.

10. Deny the allegations of paragraph 35.

11. With respect to the allegations of paragraphs 36, 37, 38, 39 and 40:

a. To the extent that these paragraphs purport to explain, describe or paraphrase Minnesota statutes, refer the Court to the official texts thereof;

b. Deny that the Notification Act imposes an undue burden upon minors' rights to abortion services;

c. With respect to the remaining allegations in those paragraphs, allege that they are without knowledge or information sufficient to form a belief concerning their truth or falsity;

d. Allege that the purported difficulties, inconveniences, costs and consequences complained of in said paragraphs result primarily from actions, inactions and decisions of Plaintiffs themselves and of others over whom Defendants exercise no control.

12. With respect to the allegations of paragraphs 41, 42, 43, 44:

a. To the extent that these paragraphs purport to explain, describe or paraphrase Minnesota statutes, refer the Court to the official texts thereof;

b. Deny all allegations which state or imply that the procedures required by Minn. Stat. § 144.343, subd. 6, have not been properly implemented or enforced, that court procedures pursuant to Minn. Stat. § 144.343, subd. 6, are unavailable, or that Plaintiffs will suffer irreparable harm due to the Notification Act.

13. With respect to the allegations of paragraphs 45 and 46:

a. Allege they are without knowledge concerning the general desires of Plaintiff doctors, Planned Parenthood of Minnesota, Meadowbrook Clinic, Midwest Services for Women of Minneapolis and Women's Health Clinic of Duluth;

b. Deny that the Notification Act prevents such Plaintiffs from offering necessary and proper advice, providing

necessary treatment or from exercising any legal right to provide such advice or services.

14. With respect to the allegations of paragraph 47, allege that they are without knowledge concerning potential voluntary actions of Plaintiffs or third persons not under control of Defendants.

15. With respect to paragraphs 48, 49, 50 and 51:

a. Deny that the Notification Act violates the United States Constitution in any respect.

b. With respect to the remaining allegations in those paragraphs, allege that they are without knowledge or information sufficient to form a belief concerning their truth or falsity.

16. With respect to paragraph 52:

a. To the extent that it purports to explain, describe or paraphrase Minnesota statutes, refer the Court to the official texts thereof;

b. Deny that the Notification Act violates the United States Constitution in any respect.

17. With respect to the allegations of paragraphs 53 and 54:

a. Admit that Minn. Stat. § 144.343, subd. 6, authorizes Minnesota courts, in certain circumstances, to hear petitions for abortions;

b. Deny that Minn. Stat. § 144.343, subd. 6 violates the Minnesota Constitution and allege that the Court is without jurisdiction to determine the claims made in paragraphs 53 and 54.

18. Except as above admitted or qualified, deny each and every allegation, matter, fact and thing contained in the Amended Complaint.

SEPARATE DEFENSES

19. Allege that the Court is precluded by the Eleventh Amendment to the United States Constitution from asserting pendent jurisdiction over the fourth cause of action set forth in the Amended Complaint and that Plaintiffs lack standing to assert such cause of action.

20. Allege that Defendant State of Minnesota is immune from suit under the Eleventh Amendment to the United States Constitution.

21. Allege that the relief sought on behalf of their minor patients by Plaintiffs Hodgson, Ditmanson, Horowitz, Meadowbrook, Planned Parenthood, Midwest and Women's Health Center does not reflect the legal interests of all such persons.

22. Allege that Plaintiffs Roe, Nadine T., Janet T. and Ellen Z. lack standing and are without capacity to sue in their own names or to act as representatives for others.

23. Allege that Minn. Stat. § 144.343, subds. 2-7, are constitutional in all respects.

24. Allege that Minn. Stat. § 144.343, subd. 6 has been implemented in a constitutional manner.

25. Allege that the Amended Complaint fails to set forth a claim for which relief can be granted.

WHEREFORE, Defendants pray for judgment:

1. Dismissing the Amended Complaint.
2. Refusing to certify any of the classes of plaintiffs claimed to be represented.
3. Denying injunctive relief.
4. Declaring that the Notification Act is in all respects valid and constitutional on its face and as applied.
5. Awarding Defendants their costs, disbursements and attorneys fees.

6. Such other relief as the Court shall find just and proper.

Dated: February 7, 1984.

HUBERT H. HUMPHREY, III
Attorney General
State of Minnesota

By: /s/ JOHN B. GALUS
John B. Galus

And: /s/ PETER M. ACKERBERG
Peter M. Ackenberg
Special Assistant
Attorneys General

515 Transportation Building
St. Paul, Minnesota 55155
Telephone: (612) 296-2654

Attorneys for Defendants

**Stipulation of Facts
for Purposes of Trial—Set II**

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
THIRD DIVISION
Civil No. 3-81-538

HODGSON, *et al.*,

Plaintiffs,

v.

STATE OF MINNESOTA, *et al.*,

Defendants.

The parties, through their respective undersigned attorneys, stipulate as follows:

1. From August 1, 1981, through December 31, 1984, 2552 petitions were filed by pregnant minors pursuant to the statutory judicial bypass procedure created by Minn. Laws 1981, ch. 228, codified as Minn. Stat. § 144.343, subd. 6.
2. The State of Minnesota is organized in ten judicial districts.
3. Virtually all of the abortions provided in Minnesota to minors under the age of 18 have been and continue to be performed in the major metropolitan areas of Minneapolis, St. Paul and Duluth.
4. The great majority of all petitions filed pursuant to the statutory judicial bypass procedure have been filed and heard in the major metropolitan areas of Minneapolis, St. Paul, and Duluth.

5. In addition to the major metropolitan areas of Minneapolis, St. Paul and Duluth, between August 1, 1981 and December 31, 1984, petitions pursuant to the statutory judicial bypass procedure have been filed and heard in the following suburban or rural Minnesota counties: Dakota, Goodhue, LeSueur, Sibley, Freeborn, Mower, Olmsted, Rice, Steele, Winona, Lyon, Nobles, Stearns, Todd, Pope, Cass, Koochi-ching, Crow Wing, Lake of the Woods, Anoka, Washington and Wright.

6. The Fourth Judicial District of the State of Minnesota consists of Hennepin County.

7. In Hennepin County all petitions and proceedings under the statutory judicial bypass procedure are in the Juvenile Division of the Hennepin County District Court.

8. Between August 1, 1981 and December 31, 1984, 1,598 petitions pursuant to the statutory judicial bypass procedure were heard and decided in Hennepin County.

9. Susanne K. Smith is the Hennepin County Court Services Supervisor and administrator of the Hennepin County guardian ad litem program.

10. The Hennepin County Public Defender is responsible for providing representation to minors proceeding under the statutory bypass procedure in the Juvenile Division of Hennepin County District Court.

11. David Knutson is a senior attorney in the Hennepin County Public Defender's Office.

12. The Second Judicial District of the State of Minnesota consists of Ramsey County.

13. In Ramsey County, all petitions and proceedings pursuant to the statutory judicial by-pass procedure are heard by the Juvenile Division of the Ramsey County District Court.

14. Between August 1, 1981, and December 31, 1984, 618 petitions pursuant to the statutory judicial bypass procedure

were filed and heard in the Juvenile Division of the Ramsey County District Court.

15. The Ramsey County Public Defender is responsible for providing representation to minors proceeding under the statutory judicial bypass procedure in the Juvenile Division of Ramsey County District Court.

16. The Sixth Judicial District of the State of Minnesota includes the counties of St. Louis, Carlton, Lake and Cook.

17. Between August 1, 1981 and December 31, 1984, a total of 203 petitions pursuant to the statutory judicial bypass procedure were filed and heard in the Sixth Judicial District, all of them in St. Louis County.

18. The First Judicial District of the State of Minnesota includes the counties of Carver, Dakota, Goodhue, LeSueur, McLeod, Scott and Sibley.

19. Between August 1, 1981 and December 31, 1984, 57 petitions pursuant to the statutory judicial bypass procedure were filed in the counties of the First Judicial District.

20. The Third Judicial District of the State of Minnesota includes the counties of Dodge, Fillmore, Freeborn, Houston, Mower, Olmsted, Rice, Steele, Wabasha, Waseca and Winona.

21. Between August 1, 1981 and December 31, 1984, 46 petitions pursuant to the statutory judicial bypass procedure were filed in the county courts of the Third Judicial District.

22. The Tenth Judicial District of the State of Minnesota includes the counties of Anoka, Chisago, Isanti, Kanabec, Pine, Sherburne, Washington and Wright.

23. The Ninth Judicial District of the State of Minnesota includes the counties of Aitkin, Beltrami, Cass, Clearwater, Crow Wing, Hubbard, Itasca, Kittson, Koochiching, Lake of the Woods, Mahnomen, Marshall, Norman, Pennington, Polk, Red Lake and Roseau.

24. The Fifth Judicial District of the State of Minnesota includes the counties of Blue Earth, Brown, Cottonwood, Fari-

bault, Jackson, Lincoln, Lyon, Martin, Murray, Nicollet, Nobles, Pipestone, Redwood, Rock and Watonwan.

25. The Seventh Judicial District of the State of Minnesota includes the counties of Benton, Becker, Clay, Douglas, Mille Lacs, Morrison, Otter Tail, Stearns, Todd and Wadena.

26. The Eighth Judicial District of the State of Minnesota includes the counties of Big Stone, Chippewa, Grant, Kandiyohi, Lac Qui Parle, Meeker, Polk, Renville, Stevens, Swift, Traverse, Wilkin, and Yellow Medicine.

Dated: August 7, 1985

HUBERT H. HUMPHREY, III
Attorney General
State of Minnesota

By: /s/ JOHN GALUS (by PMA)

John Galus
Special Assistant
Attorney General
Atty. Reg. No. 33327
515 Transportation Building
Saint Paul, Minnesota 55155
Telephone: (612) 296-2654
Attorneys for Defendants

By: /s/ SUZANNE M. LYNN

Suzanne M. Lynn
*Attorney for all Plaintiffs
except Planned Parenthood
of Minnesota, Inc.*

By: /s/ WILLIAM Z. PENTELOVITCH

William Z. Pentelovitch
*Attorney for Plaintiff
Planned Parenthood
of Minnesota, Inc.*

DEPOSITION TESTIMONY EXCERPTS OF SYLVIA P., MINOR

[DIRECT BY MS. LYNN]

[6] * * *

Q You elected not to tell your father at all?

A Yes.

Q And can you tell us why you decided not to tell your father?

A Because he's a political figure and he's very much against anything to do with this place or any other abortion or anything.

Q You say he's a political figure. Is this a political stance that he takes?

A Yes.

Q And what did you think his reaction would have been had he found out?

A I think he would have shipped me out of here or else made me give my baby up for adoption if I were to have it, but I wouldn't have been around here. He would have taken me out of the area so nobody would have known where I was, you know, just like a little vacation.

* * * * *

[8] * * *

Q And she immediately called the court while you were there?

A Yes, tried to set it up for me.

Q And what did you understand from her efforts? What did she tell you about her efforts to set up a court hearing?

A That they didn't want my case.

Q She told you that?

A Yes.

Q And did she tell you why they didn't want your case?

A Because of my father.

Q Can you explain what you mean by that?

A Because of his—him being a political figure, that if it ever got out that I had gone to court I suppose that they probably would have been in trouble or I would have been.

Q How do you know—Why do you think that they didn't want your case? Did they recognize your name?

A Yes, and they know my father.

Q So what happened after she informed you that they didn't want your case? Was there a court proceeding set up?

A What do you mean court proceeding to see if I could get my case on?

Q No. What happened then? What steps did Tina take to the best of your knowledge?

A She fought for it. She said I was no different from anybody else who came here and a name doesn't mean anything or [9] a person or anything, that everybody should be helped, not excluding people.

Q And did she tell you this?

A Yes.

Q She told you that this is what she said to them?

A Uh-huh. (meaning yes)

Q And did she succeed in setting up a court hearing for you?

A Yes, she did.

* * * * *

[16] * * *

Q What do you think you would have done if you had had to tell your father?

A I wouldn't have. I would have either left the area—I thought about suicide and that got right out of my head as soon as I came down here and these guys talked to me. Tina and Sherry. I would have either left the area or done something drastic.

* * * * *

[20] * * *

Q During your court appearance did anyone acknowledge that you were the daughter of a political figure, local political figure?

A Did anyone by meaning who?

Q Anyone in the court proceeding.

A Well, the judge knew me. I knew him.

Q How did you know him?

A From seeing him on the TV and reading the papers.

Q How did he know you?

A Because as soon as my father's name was mentioned he knew who I was right away.

Q How do you know he knew that?

A Because he told me so.

Q During the proceeding?

A Well, yes.

* * * * *

DEPOSITION TESTIMONY EXCERPTS OF NATALIE C., MINOR

[DIRECT BY MS. OJALA]

[4] * * *

Q Okay. Did you talk to anyone about the fact that you were pregnant?

A Yes, my boyfriend.

Q You talked to your boyfriend. Okay. What did you talk about when you talked to him about your pregnancy?

A I told him I was and what should we do. And we talked about it and we decided, yes, that I should get an abortion. So I called here and got an appointment.

Q How old was your boyfriend in September?

A Eighteen.

Q Was he also in high school?

A No, he graduated.

Q He had graduated but lived in Duluth?

A Yes.

Q Could you tell me why you came to the decision? It was a mutual decision?

A Yes.

Q How you came to the decision to have an abortion, what were your reasons?

A Well, my step-dad, he's got a bad temper and I'm scared of him and I was just afraid he'd knock me around. And my mom once said I would be kicked out if I got pregnant if she

ever found out I'd be kicked out. I'm too young. I'm not [5] financially set to have a child.

Q So basically you talked to your boyfriend and the two of you agreed that that would be best?

A Yes.

* * * * *

[7] * * *

Q And why is it that you didn't notify your parents about the fact that you were having an abortion?

A Because of my step-father and I'm just afraid of him knocking me around, going after my boyfriend.

Q So you're saying you were afraid of your step-father and you were afraid he would physically abuse you?

A Yes.

Q Had he ever physically attacked you before?

A Yes.

Q He had.

A (Witness nods head affirmatively)

Q How about the situation with your mother? Were there reasons why you didn't tell your mother?

A Yes. She would have kicked me out of the house.

Q What made you think that she would do that?

A She once told me that.

Q She told you?

A She said if I ever were to get pregnant and she found out I would be kicked out.

Q So you decided that you wouldn't tell your parents and that instead you would go to court for those reasons?

A Yes.

* * * * *

[11] * * *

Q How did you feel when you went in, when you were in the court with the judge?

A Very nervous.

Q You felt nervous?

A Yes.

Q Was there anything else that happened in there that you can remember?

A My neighbor.

Q Who's your neighbor? You saw your neighbor in there?

A Yes.

Q Who was that?

A X

Q And what does he do?

A Type.

Q He does the court reporting?

A Yes.

Q So you saw him in there and he knew you?

A Yes.

Q How did that make you feel?

A Nervous, very nervous.

[12] Q Because you saw somebody that you knew?

A Yes.

Q So you were asked by the attorney what, to state your reasons why you weren't telling your parents?

A Yes.

Q And did the judge ask you any questions at all, do you remember?

A No, I don't think so.

Q Okay. Do you remember about how long the whole thing took?

A Ten, fifteen minutes. Not very long.

Q And, when it was over the judge made a decision?

A Yes.

Q And what was that?

A Yes, that he felt I was mature enough to make my own decision on my own.

* * * * *

DEPOSITION TESTIMONY EXCERPTS OF FRANCIS H., MINOR

[DIRECT BY MS. LYNN]

[10] * * *

Q Did you tell your boyfriend?

A The next day I did. I called from Meadowbrook. I couldn't get a hold of him that evening.

Q Had you tried to get a hold of him?

A Yeah.

Q Now, proceeding to the next day, the next morning, can you tell us what you did?

A Well, we went into Meadowbrook. They took—they—my mom gave them the death certificate and my adopt—or, my papers of me being born; and then they asked me to fill out some forms and then go sit in the waiting room until I was called. And I went and sat in the waiting room. They called me the first time and I went and I watched the film on the procedure. Then I went in the second time with a nurse and she—she asked me about my father, and stuff, and I said, "Well, as you can tell, that isn't my real father. My real father—well, this man was my mom's first husband. They were married and we don't want my father brought into this."

Q Let's backtrack a little so that we can make this a little [11] clearer. You went in and you saw somebody that was a nurse; is that right?

A Uh-huh.

Q And what did she say about—did she say something to you about you and your father and the death certificate?

A She asked me some questions about it and then I just knew what she was talking about.

Q What do you mean you knew what she was talking about?

A Well, it's very plain. You can see the three years' difference.

Q Explain what you mean by "the three years' difference."

A My mother—or, me being born three years after he died.

Q When were you born?

A I was born in '66.

Q And what is the year of the date of your—that's listed on your father's—or, so-called father's—

A '63.

Q So the nurse asked you about that three-year difference?

A Yes.

Q And what did you say?

A I just—I said I didn't want my father brought into it because he had never had any contact with me since I was born, or anything, so I didn't want him contacted.

Q Were you aware of who your father was?

A Yes, I was.

[12] Q And had you ever—how long had you been aware that your father was not the man that your mother was married to?

A I was aware of that—well, I was—my mother actually told me that yes, I do have a different father, when I was in 7th grade; that was five years ago.

Q Under what circumstances did your mother tell you this?

A I was in counseling. A lot of things had been happening in my family. I was in counseling and I wanted to know about my dad. I thought I was adopted and I guess that's what brought it on was I wanted proof, you know, that I wasn't.

Q That you were not—

A —adopted.

* * * * *

[15] * * *

A She gave me the phone number of my father's office. I called him at work because I wanted him to come up because they wanted me to talk about my dad, and stuff. They wanted me to get a relationship with my dad, and stuff. You know, be friends, whatever.

Q Who's "they"?

A The counselors. And they—

Q Do you remember where this program was that you were in?

A It was out—I think it was Fairview.

Q Was it part of your school or—

A No, Fairview Hospital in Minneapolis. They have a crisis unit there and they have something like with the A.L.T.P.; something like that.

Q What's A.L.T.P.?

A It's—it's just a place where—well, the place that—I don't know what the initials stand for. I'm not sure if those are the correct initials either. But it's a place for people with depres-

sion and had problems that kept reoccurring all the time, that weren't good for you. And my mom put me in there because I was having a lot of problems.

Q And it was on the advice of your counselors in that program that you tried to contact your father?

A Well, no, but yes.

Q What do you mean, "No, but yes"?

[16] A They thought that a lot of my problems were not knowing about my father and still having feelings for somebody I didn't know at all.

Q So what happened?

A I just—I tried to call my dad and he says, "Well, yeah, I'll come up and see you tomorrow." The next day is a visiting day; and that day, I waited and I waited and I waited and he never came. And then I called him the next day and I asked him why he didn't show up and I don't remember the reason why, but he says, "I'll come up and see you next visiting."

Q Was this an inpatient program?

A Yes.

Q Were you staying—residing in that place?

A Uh-huh. He never came neither one of the times I wanted to see him. After the second time he didn't show up, I didn't call or bother him again.

Q How did it make you feel when he didn't show up?

A Sad, but I was also angry at him for not showing up; for saying something that he said that he'd do and he never did it. It was a broken promise.

Q Now, getting back to the morning that you went to Meadowbrook: I believe you were talking about how you had talked to the nurse and she asked you about your father.

A Uh-huh.

[17] Q Did you explain to her about the difference between the dates on the birth certificate and your birth—on the death certificate, excuse me, and your birth?

A Yes, I did.

Q And what did she say?

A She said that my father—is there any way we could get in touch with my father to have him sign the papers or I'd have to sit—I'd have to go through Court.

Q What did you feel about the Court—the possibility of going to Court?

A I didn't—I didn't want to go to Court.

Q Why?

A It was delaying it and I just—I didn't know what would happen in Court, you know. I didn't know what the Court would be about so—I just—I didn't want to go to Court. There was no way. I didn't want to have to go through waiting until I went through Court to go through and have it—then have it done after that because I could have changed my mind.

* * * * *

DEPOSITION TESTIMONY EXCERPTS OF CYNTHIA J., MINOR

[DIRECT BY MR. JEVNE]

[CROSS BY MR. ACKERBERG]

[7] * * *

Q I'm going to direct your attention to December 7, 1982 and ask if that was the date upon which you first went to the Planned Parenthood Clinic?

A Yes, it was.

Q What happened? Generally describe what happened at that first visit to the Planned Parenthood Clinic?

A I filled out many forms giving them information, history, and they—I made another appointment to come back later.

Q You advised them as to what your concern was?

A Yes.

Q And did they give you an appointment?

A Yes, they did.

Q Did you then return to the Planned Parenthood Clinic on December 15th?

A Yes.

Q What happened?

A I had a pregnancy test.

Q Anything else?

A It was negative.

Q Did they give you a complete physical at that time?

A Yes.

Q And other tests such as a PAP test?

[8] A Right, yes. There was some concern whether that test was correct or not, if it was negative. It showed negative but we thought otherwise.

Q We're talking about the pregnancy test now?

A Right.

Q Now, the test showed negative. Why was there some concern as to the accuracy of the test at that time?

A Because it might have been too early and that I had missed my period in December.

Q So you felt that because you had missed a menstrual period that there still was a likelihood you were pregnant?

A Yes.

Q And Planned Parenthood, even though the chemical test was negative, recognized this possibility?

A Yes.

Q So what arrangement was made in light of that question that was still unresolved?

A I was to come back again.

Q All right. And how soon did they tell you to come back?

A A couple weeks. A week or so.

Q Did they tell you to come back if you missed another period?

A Yes.

[9] Q And did you make another appointment to go back to the Mankato Planned Parenthood Clinic?

A Yes.

Q Did you in fact return to the Mankato Planned Parenthood Clinic January 27, 1983?

A Yes.

Q Will you tell us what happened at that visit?

A I had another pregnancy test and this time it was positive and they said I was seven plus weeks.

Q To go back to your very first visit, at the time that you had your first visit and physical, were you seen by a physician at that time?

A Yes.

Q Were you also seen by one or more nurses at that time?

A Yes.

Q And the physician reviewed the results of that first pregnancy test?

A Yes.

Q The second time, on January 27th for your second physical, were you also seen by a physician?

A Yes.

Q And he examined you physically?

A Yes.

Q And also examined the results of the pregnancy test?

A Right.

[10] Q Did they perform other physical examination tests on that second visit other than just the pregnancy test?

A No.

Q Now, what did you do after you were advised that you were indeed pregnant at that point?

A I received a pamphlet of alternative services for pregnancy and I looked at the pamphlet and called up to Planned Parenthood. After deciding that I was going to have an abortion, I call the Planned Parenthood in St. Paul.

Q Now, did you do that on the same day that you went to the Mankato Planned Parenthood Clinic?

A Yes.

Q And when you decided to call Planned Parenthood up in St. Paul were you at the Mankato clinic in Mankato or not?

A I was at home.

Q So you made that call from your home?

A Yes.

Q Out of curiosity, this pamphlet they provided for you which described what you said were alternatives, they covered all kinds of alternatives as to how to resolve a pregnancy?

A Yes.

Q Such as having the child, adoption, those kinds of [11] alternatives?

A Yes.

Q Now, tell us what happened when you telephoned Planned Parenthood in St. Paul?

A I told them that I had a positive pregnancy test and I was seven weeks or more and they told me that—they asked my age

and I told them seventeen and they said I would have to have parental consent or consent by a court.

Q Do you remember who you talked with when you called the Planned Parenthood office in St. Paul?

A Sherrie was her name.

Q Now, when you called Sherrie did you discuss things other than this court business?

A Yes.

Q What other things did you discuss with her?

A About my decision to have the abortion and alternatives, cost, that kind of thing.

Q Did you go into some detail with her as to the basis for your decision to have an abortion?

A Yes.

Q Did she discuss with you the basis for that decision?

A Yes.

Q And the validity of that decision?

A Yes.

[12] Q Did she discuss with you whether or not you should consult with your family about that?

A Yes.

Q And what was discussed in that regard?

A Just why I would not tell my parents and what I wanted to do about that.

Q And you discussed that fully with her?

A Yes.

Q Did she give you the benefit of her—give you counseling on those different issues over the phone?

A Yes.

Q With respect to this parental notification had you ever heard about this parental notification law before that day when you went to the Planned Parenthood Clinic January of '83?

A No, I haven't.

Q And the initial information you got about the specifications of this law were from Sherrie in that phone conversation?

A Yes, and a nurse had mentioned it in the Mankato clinic.

Q That there was such a law?

A Yes.

Q Now, with respect to this parental notification what did you decide to do—

[13] A I decided—

Q —in that conversation or during that conversation?

A I decided to go to court to waive my parents' permission.

Q And what steps did you take then to go to court? What is the first thing you did?

A First of all, Sherrie advised me after we had discussed everything where I could call to get this and I called the clerk of court in Mankato and they had no idea. They had no case like this before.

Q First of all, when did you call that clerk of court in Mankato?

A That was the same day.

Q Still on January 27, 1983?

A Yes.

Q And by this time I take it it would have been sometime late in the afternoon.

A Right.

Q Did you make one call or more than one call to the clerk?

A I made two calls.

Q What happened during the first call?

A First call I told them my situation and what I needed to know and they knew nothing and they had to call around and find out information of where to go for [14] myself and that. So I called them back.

Q I want to talk a little more about that first call. When you first raised this question of wanting to get a court order so that you could avoid notification of your parents, what specifically did they answer to you when you said that is what you wanted?

A They acted confused. They were confused because they did not know of anything like that ever before.

Q Did they tell you to call back some later time?

A Yes, they said call back next week and I told them that I couldn't call next week because I was going to be farther along then and it would cause complications.

Q What did they say to that?

A Then they took care of me right then.

Q Is that when they told you they would check around and see what could be done about this?

A Yes.

Q Did you tell them you would call them back at that point?

A Yes.

Q So then you hung up the phone?

A Right.

Q How long was it before you called them back?

A Twenty minutes.

Q What happened? Did you talk to the same person when [15] you called back?

A Yes.

Q Do you remember the name of that person by any chance?

A No.

Q You do know to the best of your recollection it was somebody from the clerk's office?

A Yes.

Q What did that person tell you when you called back the second time?

A I believe they talked to Judge Mason.

Q Do you remember specifically that they mentioned that?

A Yes. And they said they had nothing like this before in Mankato and that I would have to go up to Hennepin County to get a waiver or consent from court.

Q Anything else that you remember from that conversation?

A No.

Q What did you do then?

A Okay. By this time it was close to five o'clock so I couldn't call up anymore. I called Sherrie back at the clinic and told her what had happened in Mankato.

Q Did you make that call the same day or was that the next—

A Yes, the same day.

Q Was that the last call you made on that day relating to this abortion?

[16] A Yes.

Q What did you tell Sherrie?

A I told Sherrie the situation with what happened, what I did and she said that she would check around and I could call her back the next day. She was going to check around and see if she could arrange something in Mankato.

Q Did you call her the next day?

A Yes, I did.

Q And when did you call her? What time of the day? Do you remember?

A Afternoon.

Q It was after school?

A Yes.

Q Now, what took place during that conversation?

A I told her—okay. She said she called around down here for me and they could not arrange anything in Mankato. She gave me information of the St. Paul Detention Center in which I would have to make an appointment and go up to court there.

Q When you say St. Paul Detention Center, are you referring to the juvenile court facility?

A Yes.

Q And did Sherrie give you specific information as to how to arrange that contact with the St. Paul juvenile [17] court facility?

A She just told me of the place. That's about it.

Q Did she give you a phone number to call?

A No, not that I recall.

Q What did you do at that point?

A I called the St. Paul Juvenile Detention Center and I made an appointment which was the following Wednesday, I believe, for my court hearing and that was approximately two or three in the afternoon.

Q Was there any discussion about how often or when they would hold these hearings?

A It was Monday through Friday. No weekends. Saturday or Sunday court could not be held.

Q But they could take you Monday through Friday at any time during those days?

A I believe so.

Q And the time that you selected was two or three in the afternoon?

A On Wednesday. It was a Wednesday.

Q Do you remember specifically the date of that court appointment?

A Wednesday the 9th of February.

Q Now, first of all at this point, let's go back to the time when you first found out that you had to go to court if you did not want to advise your [18] parents. Why did you feel that you were uncomfortable advising your parents about your predicament?

A Because this was my situation and it's my decision. It would have caused tension in my family. They had enough things going on, I didn't need to tell them about this. It was my own decision.

Q Do your parents—are you aware that your parents had certain religious or political feelings that would have made the subject of abortion uncomfortable for them?

A My parents are Catholic. I'm Catholic. But if I had decided—told them and decided what I had decided, it would have been too big of an obstacle.

Q Their political feelings on the subject?

A I don't know.

Q At any rate, you definitely concluded that you felt you did not want to involve them in this problem.

A Right.

Q Do your parents have any other relatives that are strongly involved in anti-abortion activities or lobbying?

A Yes, I have relatives in St. Paul that are very strong about this. They're active.

Q Are they relatives of your father or mother?

A Father.

Q Are they like sisters or brothers of his?

[19] A Yes.

Q Now, when you found out about this, the fact that you would have to go to court if you did not want to tell your parents, how did you feel about that when you heard about that?

A I knew it was going to be an inconvenience and I was afraid to go because if it was in Mankato, because I know a lot of people in Mankato, and I was afraid that my identity would

be known. Other people would know about it yet my parents wouldn't.

Q Why were you afraid that your identity would become known if it were in Mankato?

A Because the courthouse is in Mankato, I'm from Mankato, I have lived here eighteen years and I know a lot of people because I have been involved in a lot of things and there just is a chance that my identity would be known.

Q Do you know people that are employed at the courthouse in Mankato?

A - Yes.

Q Familiar with them?

A Yes.

Q Did the idea that you would have to go to court then cause you some concern at that point when you initially found out about it?

[20] A Yes.

Q Did it cause you additional concern when you found out that you were going to have to go to the Cities to accomplish this court hearing?

A Yes, definitely.

Q What were the problems caused by the fact that you were going to have to go to the Cities for this court appearance?

A First of all, I had to have transportation up there. I took a Greyhound bus for \$20 round trip there. I missed a day of school, of my school which is unexcused which is on my record; the cost for it; going up to the Cities all by myself, all on my own. It was a scary experience.

Q You arranged this all by yourself?

A Yes.

Q And you didn't have any help from anybody else?

A Right.

Q You paid for it all by yourself?

A Yes.

Q How much total funds would you say you expended with your bus fare and meals and so forth in this trip up for the court hearing?

A Probably 30 to 35 dollars plus working. I had to get off work.

[21] Q You missed work as a result of having to do that?

A Yes.

Q How much work did you miss?

A Six hours of work.

Q How much were you paid at that time for your work?

A Three fifty per hour.

Q Now, when you missed school you indicated it was an unexcused absence. What do you mean by that?

A There was no parent's call in for me missing school so I went to detention and had to make that up.

Q So it was just as if you were truant for that day, as if you had just taken off to have fun or something like that?

A Yes.

Q Just out of curiosity, what kind of detention do they make you stay in for that?

A It was after school. A week after school for an hour, 45 minutes after school.

Q Every day for a week?

A Per class period, one hour.

Q So did that involve—are you talking about a week?

A Yes. Five days.

Q Five days you had to stay after school every day?

A Yes.

Q For 45 minutes or an hour?

[22] A Yes.

Q And I take it this probably also caused some irritation on the part of your teachers or whatever when you missed that day.

A Yes.

Q Was that expressed to you in any way do you remember?

A No.

Q Now, I want you to tell me exactly how that day went from the time you got up in the morning until the time you got back with respect to the day of your court hearing.

A Okay. I woke up approximately 4:30, got ready, walked down to the bus depot which was a good mile and a half from my house. Then I caught the bus at six o'clock in the morning; rode the bus up to St. Paul stopping in every town on the way. I arrived about ten, 10:30 to St. Paul and lucky for me the Detention Center was right next to the bus stop because I had no idea

where I was in the Cities. I don't know my way around at all. So I was lucky that it was right next to it.

So my appointment was approximately two in the afternoon so I had four hours to waste. I went to the mall, walked around shopping a little bit, had lunch and then went over to the Detention Center and I did homework for two hours and then this was about my [23] appointment time and I talked to a lawyer—I had a guardian also and they just prepared me for what the judge was going to ask me.

Q What happened?

A And then they talked to me for about 20 minutes and prepared me for this. Then I went to my—they were going to set me off for another hour because another girl had come before me but I told them I was going to miss my bus so they took care of me right away. And so, let's see, we went through the court procedure and it was in my way. It came out good for me. I got permission by the court and that's it.

Q Did they give you a document then so that you could take that so you could secure your abortion?

A Yes.

Q And you had a hearing actually before a judge?

A Yes.

Q Did that take place in the judge's chambers?

A Yes.

Q And your guardian and your attorney were there with you?

A Yes.

Q Then what happened after that?

A Then I went and took the bus home and I arrived home at eight o'clock at night.

[24] Q When you left to walk to the bus early in the morning, you did that without the knowledge of your parents?

A Yes.

Q Because you obviously did not want them to know where you were.

A Right.

Q And you had to hide that from them also when you returned?

A Yes.

Q How did you feel during that day when you had to go through that long day by yourself?

A I felt that it was not necessary because of my—it was my decision in the first place what I was going to do. It was a very big inconvenience, and I felt down on myself because I was missing school, et cetera.

Q Did you have any fears or concerns during that day?

A Yes. The whole day was—it was a fearful day. All the strange people I didn't know, you know. It was a different atmosphere for me totally.

Q Were there a lot of strange people in the bus station and that sort of thing?

A Yes, definitely.

Q Was that scary for you?

A Yes.

Q Where did you get the money to pay for this particular [25] trip?

A Savings account.

Q Savings from your jobs?

A Yes.

Q So now you got back and to the best of your recollection this would have taken place February 9th?

A Right.

Q And before your deposition today you looked at a calendar for that year, didn't you, to try to figure out what would have been the day?

A Yes.

Q Now, after getting back February 9th and now having the court authority, what was the next step?

A I called Sherrie in St. Paul at Planned Parenthood and told her that I had the okay.

Q Did you call her the next day after the hearing?

A Yes, the next day.

Q And then what?

A Then we made an appointment for my abortion.

Q And do you remember what day that appointment was for?

A The 16th of February.

Q That was an appointment for you to be at the St. Paul clinic on Ford Parkway?

A Yes.

Q What arrangements—before we leave the subject of [26] telephone conversations, when you had that initial flurry of conversations with Sherrie about the court procedure and your abortion decision and so forth that you already told us about, what would you say was the total period that you talked with Sherrie on the phone in that initial flurry of conversations?

A I would say an hour.

Q Do you remember how many conversations there would have been when you were trying to resolve that initial court appearance difficulty?

A Different phone conversations which I had to keep confidential from my parents which was another concern.

Q And how did you keep those confidential from your parents?

A Well, the first few times I called I called and it would show up on my parents' phone bill, but then Sherrie told me to call collect which I did.

Q So that was another thing you had to worry about was your parents picking this up on the phone bill?

A Yes.

Q Now, you arranged this appointment for February 16th. What happened then with respect to that appointment?

A February 16th a girlfriend and I drove up to St. Paul and went through all of the informative sheets I had to fill out and history and then they told me that I was [27] too far along. I was 15 weeks and three days in my pregnancy so I was in the second trimester.

Q What did that mean?

A That meant that Planned Parenthood could not give me an abortion. They could only go up to 14 weeks.

Q What was the result?

A They referred me to another clinic in Minneapolis.

Q Did they give you several alternative places to go to get an abortion past the first trimester?

A Yes, they did, but they told me one specific doctor.

Q And that was Dr. Hanson?

A Yes.

Q Mildred Hanson?

A Yes.

Q Now, with respect to getting up to the clinic, you said a friend went with you this time.

A Yes.

Q Did you arrange with her to do that in advance of the appointment?

A Yes.

Q And she drove you up?

A Yes.

Q Did you help pay for any expenses or anything like that with respect to the trip?

A Yes, I paid for all of the gas expense, transportation, [28] lunch, et cetera. I paid for everything.

Q Do you remember how much in the way of expense was involved on the trip on the 16th?

A I would say \$25 worth of gas and up to 15, \$20 for lunch and dinner, et cetera.

Q What time did you have to leave on that day?

A We left approximately 7:30 in the morning.

Q Was this also a school day?

A Yes.

Q Did you have an excuse to miss school on that day?

A No.

Q Did you also miss work on that day?

A Yes.

Q Did you miss the same amount of work?

A Yes.

Q Now, you left at 7:30 and you got up to St. Paul fairly reasonably early in the morning I guess.

A Sure.

Q Then you went through—you said you filled out some forms.

A True.

Q Did you meet Sherrie, this person you talked to on the phone? Did you meet her in person at that time?

A Yes.

Q Did she give you some counseling about the abortion?

[29] A Yes.

Q What was involved in that decision?

A Yes.

Q And what medically was going to happen and that sort of thing?

A Yes.

Q And then did you have a physical examination?

A Yes.

Q Was it at this physical examination that a determination was made that your pregnancy was too far advanced for Planned Parenthood to do the abortion?

A Yes.

Q Was that examination performed by a physician do you remember?

A Yes, it was.

Q Now, what time was it that you found out that Planned Parenthood could no longer perform the procedure?

A I would say eleven approximately.

Q Had you brought with you sufficient funds to pay for an abortion to Planned Parenthood?

A Yes, scarcely.

Q And do you remember how much money that was?

A It was \$175 for Planned Parenthood.

Q Now, when they told you they could not do it and they gave you Dr. Hanson's name, what did you do then?

[30] A They called to Dr. Hanson and told her the situation and asked her if it would be possible that I got in and Dr. Hanson said just to come over to her clinic and she would see what she could do.

Q Did you do that?

A Yes. And I had to be back by a certain time that evening so my parents would not know what was going on. So I had to just go there and see what would happen, you know, see if—when I left Planned Parenthood, I didn't know if I would be able to go through the abortion that day or not.

Q What was your emotional state first of all when you left first to go up to Planned Parenthood that day. How were you feeling?

A I was scared and kind of depressed.

Q What about? What was your emotional state when you found out that you now were too late to have a first trimester abortion?

A I just couldn't believe it. I was very scared. I was crying. I was very shook up.

Q And what happened when you got to Dr. Hanson's office?

A I signed in and they knew my situation and they told me to wait. I was so nervous I couldn't do anything so I just tried to go to sleep. I fell asleep for about four hours and then Dr. Hanson saw me.

[31] Q Did Dr. Hanson take steps to begin the procedure?

A Yes. It was a D and C abortion and I had to have insert laminaria sticks.

Q Laminaria?

A Yes.

Q And that is a preparatory step for an abortion of the kind that you were going to have?

A Yes.

Q And she wanted that done as part of good medical practice for your abortion?

A Yes.

Q And she explained that to you at the time?

A Yes.

Q And the purpose for doing so?

A Right.

Q What were you advised then that you were to do after these laminaria were inserted?

A She gave me medication to take that evening. I was supposed to come back the next day for the abortion.

Q So now you had to return back to Mankato that evening?

A Yes.

Q Did you do so?

A Yes.

Q And your friend drove you?

A Yes.

[32] Q What time did you get back to Mankato?

A I would say approximately nine. Eight or nine o'clock.

Q And how were you feeling at that time?

A Terrible. Absolutely the worst. I have never felt so bad in my life.

Q In what ways were you feeling badly?

A I was sick to my stomach constantly. That's why it took so long to get back to Mankato. We had to stop every two miles it seemed like. I was depressed about having to go back to the Cities the next day. I had to miss school again.

Q Was this illness, your nausea, was that related to your psychological state rather than your physical state?

A It was physical state.

Q You were physically nauseated?

A Yes.

Q What I'm getting at, I mean was that caused by the lamina?

A Yes, that is what caused it.

Q Did Dr. Hanson say that was an expected effect from doing this?

A Right.

Q I understand then. And what did you do when you got home?

A I went right to bed. My mother came up to talk to me. [33] I couldn't even talk. I just rolled over and went to sleep and she thought that was really weird.

Q Were you concerned about having to go back yet another day?

A Yes.

Q Why were you concerned about that?

A Because I was going to miss school again and school calls your house every time you miss school. Every class period you miss. So my parents work until six at night so they missed a call this day and the second day I had to have someone call from Dr. Hanson's office to clear me from school. Otherwise my parents would find out that I have missed two full days and I wouldn't get away with that. They'd want to know everything, where I had been.

Q Now, the next day did you go back to Dr. Hanson's office?

A Yes.

Q How did you get up there that time?

A My girlfriend drove me.

Q Same as the day before?

A Yes.

Q And what time did you leave that day?

A About 9:30 in the morning.

Q Did you again participate in paying expenses for her [34] driving you?

A Yes. She helped me out but I reimbursed her.

Q Did you find out that the cost of having the abortion, second trimester abortion done by Dr. Hanson, was going to be extremely greater than you were prepared to pay to Planned Parenthood?

A Yes.

Q Do you remember the difference in cost?

A Probably about \$125.

Q What did you do about making the payment for the additional cost?

A I gave her all the money I had so my girlfriend helped out with expenses of getting to the Cities and back and I had an I.O.U. of \$80 to Dr. Hanson.

Q Did you eventually pay that to her?

A Yes.

Q You went up to her office and you had the procedure that day.

A Yes.

Q And what time did you return to Mankato that day?

A We left at about 5 o'clock and returned about seven.

Q So the total time that was spent in securing this abortion from the first time you found out you had to go through this court procedure up to when you had it was three full days away from Mankato?

[35] A Yes.

Q And had you not had to secure the court permission and go through all that resulted in that and was involved with that, would you have been able to secure your abortion in the period of one day?

A Yes.

Q Would you have been able to secure the abortion at Planned Parenthood, a first trimester abortion?

A Yes.

Q All right. Finally, Cynthia, were there any periods of time when you were concerned about whether or not you could really get through this whole procedure from start to finish in light of the difficulties that you had?

A I was in doubt a lot because of the court case kind of thing, but I decided that this is what I'm going to do and that they can't stop me from doing this.

Q So you very firmly decided you were going to overcome all of these obstacles?

A Yes.

MR. JEVNE: I have nothing further at this time.

CROSS EXAMINATION

BY MR. ACKERBERG:

Q Cynthia, January 27, 1983 I think you've testified you [36] discovered that you were pregnant at least seven weeks.

A Yes.

Q Did you have any more definite word from Planned Parenthood on how far along in your pregnancy you were?

A Seven plus weeks. That's what they told me.

Q Did that mean to you it could have been any period after seven weeks or was it in the area of seven weeks?

A Any time after seven weeks.

Q So you didn't know definitely how far along you were?

A Well, my last regular period was October, October 30th. So from that time it would be ten weeks.

Q So did you think you could have been up to ten weeks pregnant?

A Yes.

Q You made an appointment for your court hearing for February 9, 1983; is that correct?

A Yes.

Q When did you make that appointment?

A On January 27th or the next day, the 28th.

Q So on January 28th you made an appointment for February 9th?

A Yes.

Q Did you try to make an appointment for an earlier court appearance?

A Yes, but I couldn't get around work or school and that [37] was the time that I could get up to the Cities.

Q So an earlier court date was available but you could not make it?

A I don't recall. As far as I know. But I believe that—they set me up with this appointment. That's what they told me. They had an appointment on a Wednesday.

Q Did you ask for an earlier appointment?

A No, I didn't.

Q Did you ask for an appointment during the weekend?

A Yes.

Q What was the response?

A They couldn't do that. When I did ask for an earlier appointment, because Saturdays and Sundays were the days I could go up to the Cities with no problems of school or work, and that was not possible so Wednesday—

Q Who told you that?

A The girl I talked to up in the Detention Center who made my appointment. The secretary.

Q By Detention Center you mean the juvenile court?

A Yes.

Q Did you ask whether weekend hours were available in an emergency situation?

A Yes.

Q What was the response?

A They didn't—no, they couldn't.

[44] . . .

Q Let me try to clarify which court you appeared in. The county seat of Hennepin County is Minneapolis. The county seat of Ramsey County is St. Paul. Did you appear in court in St. Paul or Minneapolis.

A St. Paul Juvenile Detention Center I believe it's called.

Q Before appearing in court you did not visit—did you visit Planned Parenthood in St. Paul?

A No.

Q You were concerned about an unexcused school absence?

A Yes.

Q On the 9th then, the day that you appeared in court, did you appear at Planned Parenthood at all?

A No.

Q While you were waiting to appear in St. Paul court, you were concerned about missing your bus back home?

A Yes.

Q What time did your bus leave?

A Five o'clock I believe.

Q And what time did you—was your court appointment?

A It was at three o'clock.

Q And did you tell somebody that you were concerned about missing your bus back home?

A Yes.

* * *

[47] * * *

Q Can you tell me how that date was arranged?

A February 16th?

Q Yes.

A No, I don't know. It was just the appointment that I made.

Q Did you seek an earlier appointment?

A I don't recall.

Q Do you recall any discussion with Sherrie about the time factor, the importance of having an abortion as quickly as possible?

A Yes, Sherrie knew that.

Q But you can't recall why a week went by between the time you called and—

A Probably because I had to work. I was scheduled to work. That was the soonest appointment I could make.

Q Was the abortion performed?

A Yes.

Q By Dr. Hanson?

A Yes.

Q Was it performed safely?

A Yes.

* * *

DEPOSITION TESTIMONY EXCERPTS OF BONNIE L., MINOR

[DIRECT BY MR. JEVNE]

[CROSS BY MR. ACKERBERG]

[5] Q Did the doctor tell you approximately how far along you were in your pregnancy?

A Yes. They said I was 13 or 14 weeks along.

Q When you went to that clinic, what time of the day was it that you went?

A Planned Parenthood of Minneapolis?

Q Right. Minneapolis.

A It was in the evening.

Q Now, they referred you to the St. Paul Clinic, correct?

A Yes.

Q When did you make contact with the St. Paul Clinic, if you did?

A I contacted the St. Paul Clinic on Wednesday after school.

Q That would be the very next day?

A Yes.

Q That date would be March 14, 1984?

A Yes.

Q Who did you talk to when you called there?

A I talked to Sherry.

Q Is she a counselor at Planned Parenthood?

A Yes, she is.

Q You later met her personally, did you not?

A Yes, I did.

[8] * * *

Q So you were talking to her on Wednesday now?

A Yes.

Q She was hoping you will get a court hearing on Thursday?

A Yes.

Q Did you call the number that she gave you?

A Yes, I did.

Q When did you call?

A I called Wednesday. Right after I talked to Sherry.

Q And did you get somebody down in Hennepin County Court?

A Yes, I did. I talked to a lady and told her my situation and she said she didn't have an opening until Monday morning. And I told her that that would be too late, and asked if she had any other openings. And she said she didn't. I called back Sherry and told her that. Sherry tried contacting them.

Q Before we get to Sherry contacting them, when you talked with this woman, did you explain the reason it was important for you to have a hearing [9] before the next week?

A Yes, I did.

Q What specifically did you tell her?

A That if I didn't have it within the week, it might be too late to have the abortion. I needed the court hearing and the counseling within the week so I could have the abortion on Friday, and maybe Monday at the very latest.

Q Now, then you called Sherry back you said?

A Yes.

Q And you explained to her what happened, I take it?

A Uh-huh.

Q Then what happened next?

A She called them to try to get an appointment and she didn't. She must not have had any luck. She called me back and gave me the Ramsey number or the courthouse.

Q When she called you back, did she explain to you that she hadn't been able to get a hearing either?

A Yes. She said she didn't have any luck either. Then I called Ramsey and I told them the exact same thing I told Hennepin County and they said they could get me in on Friday at 2:30.

* * * * *

[14] * * *

Q Now, did you have an appointment at Planned Parenthood to go ahead and have the abortion procedure?

A Yes. I did on Monday.

Q Go ahead and tell us what time the appointment was for.

A The appointment was for 9:30 and I went in and had a little more counseling. I had a checkup and just their basic exam and I went in there to get it and Dr. Hanson sized me again,

sized me and said I was too far along and I wouldn't be able to have it at Planned Parenthood.

Q What do you mean by too far along?

A I was over the 14 weeks that Planned Parenthood would do. They do up to 14 weeks pregnancy.

Q Did she propose some alternative to you?

A She said I could go to her clinic and have it done there.

Q That would be a second trimester procedure down there?

A Yes, it would.

Q And did you go through, first of all, when [15] you went down there on Monday, did you miss the whole day of school on Monday?

A Yes, I did.

Q How did you, what excuse did you develop for that day?

A I called the school as my mother saying I was sick and that I wouldn't be in school and that excused me for the whole day.

Q Again you had to tell a lie to the school, in effect, to get out of school that day?

A Yes.

Q Did that also have the effect of making you nervous and have to worry about whether you might get caught?

A Yes.

Q Then, did you go through this procedure at Dr. Hanson's?

A Yes, I did.

Q Tell us what happened next, then?

A I had to go Tuesday, to get the sticks put in.

Q The sticks?

A Yes.

Q By the sticks you mean laminaria sticks?

A Yes.

[16] Q That is a procedure that Dr. Hanson uses as kind of a preparation for having the abortion, correct?

A Yes.

Q When on Tuesday did you go down to Dr. Hanson's office?

A Tuesday, I left school at 1:30 and we got down there at about 2:40 and waited around until I was called in.

Q Again, how were you getting around in and out of the city on these occasions?

A The bus or cab.

Q How about when you went to Planned Parenthood on Monday?

A We had a friend of John's take us down there.

Q Now John is your boyfriend, I take it?

A Yes.

Q Did you have to miss school time on Tuesday when you went to Dr. Hanson's office?

A Yes, I did. I had to miss the last hour.

Q How did you manage that?

A It's a study hall and I went down and I checked in and I said I was going to some classroom to work and so they thought I was there the whole hour. After I checked in, I left.

Q Again you were deceiving the school [17] authorities and you might have been caught?

A Yes.

Q After the laminaria sticks were inserted on Tuesday, then what happened?

A I had to go back Wednesday at the same time. And I did the same thing for study hall and then I waited around then until the procedure happened.

Q Now the procedure has been complete?

A Yes.

* * * * *

BY MR. ACKERBERG:

[21] Q Do you know who the woman is you contacted at Hennepin County?

A No, I don't.

Q Do you know what the telephone number was or what office it was?

A No, I don't know.

Q Did you or Sherry make any effort to contact the judge in Hennepin County directly?

A I didn't. I don't know what Sherry did.

Q You received court approval on Friday afternoon from Ramsey County?

A Yes, I did.

Q Why wasn't the abortion performed on the Friday after that?

A I don't think they had abortions on Friday afternoon. I don't think I could have. I don't think I could have gotten in on Friday.

Q Why didn't you have it on Saturday?

A I don't think they are open.

Q Why didn't you have it on Sunday?

A They aren't open on Sunday.

Q When Dr. Hanson sized you and said that you were over 14 weeks, did she say how many weeks you were?

A She said I was probably about 15.

* * * * *

TRIAL TESTIMONY EXCERPTS OF DR. STANLEY HENSHAW,
DIRECTOR OF RESEARCH AT ALAN GUTTMACHER INSTITUTE
[DIRECT BY MS. LYNN]

[19] * * *

Q And how accurate is the Alan Guttmacher Institute data on fertility-related subjects generally considered in the demographic statistics community?

A Our statistics are considered the best available and are actually quite accurate as regards abortion. They are accepted by the United States Department of Commerce for publication in the Statistical Abstract of the United States and in fact the Centers for Disease Control, it often uses our total numbers of abortions for scientific purposes.

* * * * *

[20] A I wouldn't be able to identify factors specific to Minnesota that were different from the country.

Q What about the numbers of abortions and/or abortion rate for Minnesota women under 18?

A That also peaked in 1980. I don't have the rate, but I have looked at the numbers and the numbers peaked in 1980 and have declined since then.

* * * * *

[30] * * *

BY MS. LYNN:

Q Dr. Henshaw, can you tell us what this table shows?

A I think the interesting part of the table is the percent change from 1980 to 1982 in the abortion rates. It shows a decline of 25 percent in abortion rate to women under 18 and the decline of 11 percent in the abortion rate to women 18 to 19.

Q Now why did you pick the two age groups, under 18 and 18-19 for the purposes of comparison in this table?

[31] A Well, we were interested in what happened as a consequence of the law. The law would affect women under 18 primarily and many factors may influence teenagers. Aside from the law abortion rates might change over a period of time so the 18 to 19-year-old group was the most appropriate group to compare to the minors under 18.

Q All right. Now you testified earlier that abortion rates for all Minnesota women in the years, in the early 80s, that is 1980 through '82 declined and that the rate of decline was much greater for women under 20 and that the greatest decline occurred among women aged 15 to 17, is that correct?

A That is correct.

Q Can you identify any factors that in your opinion may have contributed to this trend?

THE COURT: When you say "this trend" are you talking about the minus 25 on the third line?

MS. LYNN: I am talking about—yes.

THE COURT: What trends are you talking about, Dr. Henshaw?

THE WITNESS: I haven't answered the question yet.

THE COURT: She is giving you a question about what contributed to the "trend" and I don't know what trend you are talking about.

THE WITNESS: There are a number of trends. One is the decline overall and the other is the decline among the [32] minors and the 18 to 19-year-olds.

I can only name some factors that can change reported numbers of abortions.

First I would like to point out that the statistics are not perfectly accurate. These numbers of abortions are based on the State Health Department numbers. We at AGI do our own count of abortions. In each state there are some differences between our count and their count and we do ours accurate enough to know it means theirs are not completely accurate, neither are ours.

I have tried to compare and can see that they have missed some providers that we know about and we have missed some that they know about so that there is some degree of error in the number of abortions here.

* * * * *

THE WITNESS: Another factors is that a number of Minnesota women go out of state for abortions. For example, a clinic opened in Fargo, North Dakota, in 1981 that would—that could affect the changes here to some degree, would probably affect women of all ages.

Then I think it seems likely that the law had some effect on reducing the number of abortions reported here for the minors.

[33] Now as far as the 18 and 19-year-olds, I can't say what probably caused the decline except that some influence evidently has been affecting teenagers, probably the minors as well as 18 to 19-year-olds.

The fact that the rate dropped more for minors suggests that the law might have had some effect.

* * * * *

[38] * * *

BY MS. LYNN:

Q All right. Dr. Henshaw, what is this Table 2, that is Exhibit 28, show?

A Okay. That table has birth rates 1981 and 1982 for Minnesota women age 15 to 17 and 18 to 19. It shows a decline in the birth rate of the 15 to 17-year-olds of about 3½ percent and a decline in the birth rate of 18 to 19-year-olds of 6.1 percent.

Now down below we have an average of four neighboring states and I have shown the same calculations and those states, the birth rates for the 15 to 17-year-olds declined 5.2 percent and the 18 to 19-year-olds declined 4.7 percent.

Q All right. Dr. Henshaw, can you identify any factors that may have contributed to these, to this—these trends, that is a decline in their fertility rate for the applicable age groups in both Minnesota and the four states—

THE COURT: Fertility rate and birth rate are the same thing?

THE WITNESS: The same thing in this context because we are referring to specific age groups.

All I can say is that there are—appear to be some [39] regional influences on the birth rates of teenagers in these age groups.

Now the reason we are looking at the table is to see if the Minnesota law may have had an effect on the minors in Minnesota.

Would you like me to go through that analysis?

BY MS. LYNN:

Q Yes. Would you discuss a little bit what you think what impact if any the law may have had on these fertility trends?

A Well, we were interested in the fact that the birth rate went down for the 15 to 17-year-olds after the implementation of the law. So I was—I did this comparison to try to see what the effect of the law might be separated out from other trends that were occurring, and if you compare the 15 to 17-year-olds to 18 to 19-year-olds in Minnesota, the decline was less for the 15 to 17-year-olds by a small amount.

Similarly, the decline in Minnesota for the younger women was less than the decline then in the other states, in the other four states.

Q Now would you explain why you chose to compare Minnesota with these four states?

A These were all neighboring states, three of them border on Minnesota. The fourth, Nebraska, is very close. I omitted one other state which borders on Minnesota, North Dakota,

because it had a similar kind of law that was implemented [40] during this time period.

THE COURT: What are you telling me this shows?

THE WITNESS: This shows that if—if the minors had had the same trends in birth rate compared to the 18 to 19-year-olds as occurred in other states their birth rate would in fact—would have gone down about three more percentage points than it did. So the suggestion is if the law had any effect it appears more likely that the effect was to slow down the decline in the birth rate rather than to encourage a decline in the birth rate of the minors.

THE COURT: What is the effective date of the law, to your understanding?

THE WITNESS: I understood that it would affect births starting around February 1982. The law went into effect August 1st, 1981, according to my understanding. Births in 1981 would not be affected.

THE COURT: All right, go ahead.

BY MS. LYNN:

Q Okay. Did you have occasion, Dr. Henshaw, to look into the fertility rates for unmarried versus married teenagers in this same time period?

A Yes. I also looked at national rates by numbers of births to married and unmarried teenagers.

Q And what do those numbers show?

A I am afraid you have my notes on that.

[41] MS. LYNN: Pardon me, Your Honor.

THE WITNESS: What the numbers show is that the decline in births occurred primarily among married teenagers 15 to 17; that the number of births to unmarried women 15 to 17 declined only 3 percent between 1981 and 1982.

The number of births to married teenagers declined 22 percent and in fact if you look at the absolute number decline of births there was a decline of 41 births among

unmarried teenagers, a decline of 119 births among married teenagers.

BY MS. LYNN:

Q What does the fact that the numbers of births went down for married teenagers much more than unmarried teenagers in 1981 to '82 suggest to you?

A It suggests that there is a trend toward, a desire for postponing childbearing and that that is reflected in the trend among the married teenagers having fewer births. Among unmarried women there was little change in—there was no essential decline when you took the population into account. I couldn't do a rate because I don't know the proportion of women who were unmarried in the two years, but we know that overall the number of teenagers is declining each year by 4 to 6 or 7 percent and the decline in the number of births to unmarried women is actually less than the probable decline in the number of unmarried teenagers in this group in the [42] population.

Q Does this different rate of decline among births between married and unmarried teenagers suggest anything to you about the possible impact of the parental notification law?

A Well, it is—if the law—we were interested to see whether the law may have had the effect of encouraging some women to carry pregnancies to term rather than having births (sic). Assuming those would have been the unmarried women—

THE COURT: Say that again: you were trying to see if it had any effect on what?

THE WITNESS: On encouraging teenagers to carry their pregnancies to term.

THE COURT: Rather than—

THE WITNESS: Rather than having abortions; I am sorry.

THE COURT: I thought you were comparing the same thing for a moment.

THE WITNESS: I was; I misspoke.

Now given that there was a trend toward fewer births, it appears that the unmarried women did not participate in

this trend toward fewer births and it is possible, it can't be proven, but it is possible that one reason is that some of them carried pregnancies to term who otherwise would have had abortions.

[43]

BY MS. LYNN:

Q Dr. Henshaw, could you explain the concept of abortion need?

A Yes. We at the Alan Guttmacher Institute have tried to estimate the number of women who need abortions in each part of the country. The purpose is to assess the adequacy of abortion services. By "need" what we mean is the number of women who would obtain an abortion if services were readily available to her.

Q And can you make any statement about Minnesota's abortion need and its performance in meeting that need?

A Yes. We have estimated that the need for abortion services in Minnesota in a year, say 1982, is something over 30,000 women. Now we might want to deflate that a little bit [44] because Minnesota is quite a rural state. Rural states more than average anyway a non-metropolitan state. So maybe a little under 30,000 would be my estimate of the number of women in Minnesota who we would estimate have an unintended pregnancy in a year—well, in 1982—and if services were readily available would obtain an abortion.

The number of abortions that actually occurred was on the order of 19,000 in 1982. Our conclusion is that there is a significant amount of unmet need for abortion services in the state.

THE COURT: How did you arrive at an estimate of unintended pregnancies?

THE WITNESS: What we do is assume that the use of abortion services in a state where services are readily available is a good indicator of how many women would need abortion services if they were available. We took the five states where 80 percent of the women lived in a county

with a big abortion provider and assumed that in those states services are available.

Then we applied the abortion rates from those states specific by age and race of the women to the populations of other areas to estimate how many women in those areas would obtain abortions.

THE COURT: All right, that tells me how you are doing it.

BY MS. LYNN:

[45] Q All right. Have you made any determination about the degree to which abortion services are accessible to women in Minnesota?

A Well, there are two things we look at in terms of availability of abortion services. One is a number of counties with an abortion provider and in Minnesota 6 percent of the counties have an abortion provider as compared to the country as a whole where 22 percent of the counties have at least one provider. Now both of these figures may be missing a few counties because we know that we miss a few physicians who do abortions privately in their offices to their own patients. We think that this covers substantially all the providers who do a large number of abortions so that they are well-known to women and really visible and accessible.

The second measure is proportion of women who live in a county with a provider. In Minnesota 44 percent of women 15 to 44, this is for 1982, lived in a county with an abortion provider as compared to 72 percent in the country as a whole. So by these measures Minnesota is lower than the country as a whole in terms of accessibility of abortion services. It is primarily, I would say, probably because Minnesota is somewhat more non-metropolitan than the country as a whole.

THE COURT: Give me what you perceive to be the standard for each of those two methods?

THE WITNESS: Well—

[46] THE COURT: 6 percent—

THE WITNESS: Versus 22 percent average U.S. Now we think the average U.S. is low, it should be higher than that but this just gives you a standard.

THE COURT: And the percentage that live in the county?

THE WITNESS: 44 percent versus 72 percent.

THE COURT: All right.

BY MS. LYNN:

Q Where are the abortion, Minnesota abortion providers that you identified located?

A The clinics are located in the major cities, Duluth, then the Twin Cities areas. There are some other providers which are relatively less important in a couple of other counties.

Q Does the fact that virtually all of Minnesota abortion providers are located in the two major metropolitan areas of Minnesota have any impact on the ability of Minnesota women to obtain abortions?

A Well, it means that many women would have to travel long distances to obtain abortion services. For example, a woman who lives in the center of the state say, Brainerd, needs to travel at least 200 miles, I think over 200 miles round trip to either Duluth or Minneapolis to obtain services.

[49] * * *

BY MS. LYNN:

Q Yeah. Well, what effect in your opinion does delay have on abortion for women?

A I have just been editing our International Fact Book on Abortion. One part of that fact book is on complications from abortion and I have worked with CDC and made the calculation that for each additional week of gestation between eight weeks and 20 weeks the probability of mortality increases by about 30 percent. The probability of mortality is very low in any case but it does increase with each additional week during that gestation period.

THE COURT: 30 percent, did you say?

THE WITNESS: Yes.

BY MS. LYNN:

Q Have you ever done any study on accessibility of abortion services and how that accessibility relates to delay?

A Yes, we did one study in which we looked at the gestation of women obtaining abortions who obtain their abortion inside the county of residence versus outside the county of residence. We found that those who were outside their county of residence [50] had their abortions on the average of 4.7 days later than women who had their abortions inside their home counties. This was based on a regression analysis which took into account other demographic differences between the women who may have traveled outside their counties and those who obtained abortions in their counties.

Q And then in your opinion does this relationship between the accessibility and delay hold true in Minnesota?

A I would think it would probably hold true in Minnesota.

Q How does Minnesota compare with the nation as a whole in terms of the gestational age at which women get abortions?

A Well, looking at the Minnesota Health Department statistics, compared to the U.S. total, it looks as if Minnesota women are obtaining their abortion a little bit later than the country as a whole. The latest year for which I have data from both the U.S. as a whole and Minnesota is 1981 and in that year 13½ percent of Minnesota abortions were obtained past 12 weeks gestation as compared to the U.S. total figure of 9.9 percent.

* * * * *

[53] * * *

1980 in particular is a year in which a higher proportion of women seem to get late abortions so to try to even out some of these fluctuations I have calculated an average for three years, 1978 to 1980 as the "before" period; 1982 and 1983 as the "after" period.

Now if you compare the averages for women under age 20 for 1978 to 1980 an average of 16.9 percent of them obtained abortions past the 12-weeks gestation. For the average of 1982 to '83 18 percent obtained their abortions past the 12 weeks. Now to see whether these other fluctuations or some systematic change may have helped to account for that increase I looked at the same figures for women aged 20 and over, the proportion who obtained abortions past 12 weeks for the 1978 to '80 period was 9.4 percent and for the later period, '82 to '83 9.5 percent.

So there is a tiny increase for the women 20 years and over, but a much larger increase for the women under age 20.

Q What does the fact that the proportion of teenagers who got abortions after 12 weeks increased much more than the proportion of older women getting abortions after 12 weeks in 1982 to '83 suggest to you with regard to the parental notification law?

A Well, it suggests the possibility that the law may have caused some delay in the women obtaining abortions after the law went into effect.

* * * * *

[58] * * *

MS. LYNN: Based on all the figures that he has testified about in his testimony can he draw any conclusions or can he make any inferences from those figures as to the possible effect of the parental notification law, based on the figures that he testified about, not in general?

THE COURT: Do you have an opinion in that regard?

THE WITNESS: I have opinions about the possible effect of the law.

THE COURT: I will overrule the objection. You are going to tell me your opinion after the possible effect or the effects?

THE WITNESS: If I have an opinion as to the effect, all opinions have degrees of certainty and doubt.

THE COURT: You bet they do. Do you have an opinion to a reasonable scientific certainty as to the effect of the law?

THE WITNESS: Not to a scientific certainty.

THE COURT: This is just your thought as to the possible effect of these numbers?

THE WITNESS: What direction the numbers point to. I don't think you can be sure. I think if you look at the evidence you have to think, well, there it is more likely than [59] not a certain effect based on the facts. But we don't have all the facts. We certainly can't prove it.

* * * * *

[61] Q What about the effect that the impact of the law with regard to the number of abortions or the abortion rate?

A I would say that the law appears to have resulted in a decreased abortion rate among the minors. However, it is difficult to know what that really means. Some of the decrease would have been women going out of state for abortions or perhaps passing as age 18 or, I would think, I would say it is more likely than not that that resulted in decreased abortions.

However, I wouldn't say that we know to what extent that that is true.

Q And do you have any opinion about the possible effect of the law with regard to the birth rate?

A My opinion would be that the law has induced some of the minor teenagers to carry pregnancies to term who would otherwise have obtained abortions.

Q And do you think that the law may have had a different impact, differential impact on different classes of minors within the state?

A I think the minors who would have carried to term instead of having the abortion would be those who would have been relatively late in obtaining abortions anyway.

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TRIAL TESTIMONY EXCERPTS OF PAULA WENDT,
CO-ADMINISTRATOR OF MEADOWBROOK WOMEN'S CLINIC

[DIRECT BY MS. BENSHOOF]

[CROSS BY MR. GALUS]

[6] * * *

Q So you have been seeing teenage pregnant patients for 15 years, is that correct?

A That is correct.

Q About how many women have you personally done abortion counseling with, both adult and minors?

A Since 1971 I probably have personally counseled about 10,000 women who were seeking an abortion. The minors would probably be about 3000 and then I supervise the rest of the clinic staff in seeing the minors in the last three to four years as an administrator.

Q So before counseling over 10,000 women you have supervised the counseling of about how many more?

A Say that again?

[7] Q You stated that have personally counseled over 10,000 women—

A Right.

Q —seeking abortions?

In your supervisory capacity—

A Oh—

Q —how many more women have you had that counseling influence over?

A Probably another twenty or twenty-five thousand women.

* * * * *

[14] * * *

Q And then what happens to a patient?

A If they checked all the wrong things on here?

Q No, if they want an abortion, and they want to proceed.

A Oh, okay. Then she would be taken with whoever she comes with to the film and watch the film that describes how we do the abortion and what the aftercare instructions are.

Q Does the film include medical risks, or what does the film include?

A The film talks about, procedure-wise, how we do the abortion; and it talks about what it feels like, what the experience is like, what to expect afterwards physically; a little bit emotionally, and talks about what are the symptoms of complications and what do so if those occur.

Q What happens after the film?

A Then she will have her blood drawn, leave us a urine sample. One of the nurses will take her into health history and pelvic exam, breast exam, basic GYN kind of things and they will then give her consent forms and a post-abortion book. She will go back to the lobby and be with whoever she came [15] with and read over those forms and then one of the counselors will call her and review what has gone on so far, see if she has any questions on the film, on the consent form, on the post-abortion book; you know, take care of some of those kind of details; where she is going to go for her two-week checkup, who is with her, does she have a ride, and then they will do, you know, the counseling session at that time also.

Q Who do you decide does the counseling with the particular patient?

A It is a random thing; it is whichever counseling is next for a patient.

Q What happens during the counseling session;

A That is always basically determined by what the woman's requests or needs are. But basically what we are doing is talking about why she has decided to have an abortion, why she feels that would be her best decision; how she feels about that, what has been her experience with abortion in the past, what kind of support systems does she have. For some people they want to talk about their religious or moral feelings, for some they want to talk about their relationships, whether it is with parents, boy-friends, husbands, sometimes there is some other things that come up, abuse kind of things. We run into a lot of women telling us that they are unhealthy—

MR. GALUS: Excuse me—never mind, I withdraw it. Proceed.

[16] THE WITNESS: —that they are in unhealthy marriages or dangerous situations. So we talk about the abortion, but we also do referrals back to the community as indicated by the particular patient.

* * * * *

[33] * * *

Q Prior to August 1981 what was the Meadowbrook policy on minors notifying their parents?

A We didn't require them to notify their parents. We encouraged them to certainly leave that as an option for them but they didn't have to do that in order to come to Meadowbrook and have an abortion.

But again if the counselor who was dealing with her, and it would usually end up with me also, felt she wasn't able to take care of herself after the abortion or be responsible if she was going to go, if we just didn't feel she was going to be aware of any possible complication and she could deal with them, she didn't seem to have a handle on all of that, and we were worried about her leaving the clinic and worried about her after the abortion, we would require that she leave and come back with an adult.

It didn't have to be a parent but an adult person who then would know about the abortion and would agree to help her get medical care if she needed that post-abortion.

Q I am looking at Plaintiffs' Exhibit 65 now and I notice at the bottom you have a form for the counselor to fill out about minors?

[34] A Right.

Q I see you have parent or adult advocate?

A Right.

Q What is the genesis of this form and is it still used since we now have the law?

A Well, what we did with that was we would, if you saw a minor whose parents did not know about the abortion I would discuss with her now if you have any problems after the abortion what will you do to take care of yourself. If she would say to me, well, I would never tell my parents and if I got sick I would just not do anything about it, then what we would talk

about was that was not an option. In order to be responsible for herself as far as this decision went, she had to understand that in case of an emergency she had to tell somebody. Generally if she lived at home with her parents it would be her parents, so we would discuss that to the point where she would agree and she would tell me who she was going to tell if she got sick in the middle of the night and then we would sign this as a way of sort of cementing the contract.

Q Do you sign this anymore?

A No, we don't.

Q So subsequent to the change in law the nature of your counseling insofar as seeing that they had someone there is changed, is that true?

A It has changed in a lot of ways. We still talk about [35] this but it is not done as formally as we did it before because with the parental notification law a lot of that is sort of taken care of or it appears to be even though it is really not.

Q Why did you not require parental notice or consent from minors?

A Well, the doctors that I worked for had had a lot of experience with women before abortions were legal in the United States and they had dealt with all ages of women and so this was not a really new thing for them to start doing and they had some very strong feelings about women of all ages having access to this kind of medical care without being forced to involve other people.

They also had had a lot of experience with young women and they felt that in their medical opinion, their expert opinion, these women were able to consent for this procedure and that indeed they had a right to consent to this procedure.

Q Ms. Wendt, you have talked about the doctors you work for but you also said earlier that you set the policy at the Meadowbrook Clinic on many issues.

Is it in your professional opinion as a counselor, as a nurse, as a teen clinic person, as a director of the clinic, in your professional opinion why would you not require parental notice or consent?

[36] A Because I think that minors are capable of making that decision on their own without being required to tell a parent or an adult.

Q Do you think it is bad counseling or medical care to violate that privacy?

A I do.

Q Why?

A Because I think that the decision to have an abortion is uniquely private and personal and that truly nobody else can be involved in pressuring you one way or the other to make that decision. I sort of feel about it the same way I do about teenage women are not required to get anybody's consent to have a child and go on welfare and live away from the family they are with now. This is the opposite end of that kind of decision. It is still a pregnancy-related decision, it is still a decision that is going to affect her life in many ways for the rest of her life and I have talked to a lot of these young women over a lot of years and I feel very strongly that they are capable of making this decision and making a good decision and they will tell the people they feel are necessary for support, counsel, information.

They go to the people who are going to be the most supportive for them and they seek out those that they need.

Q Do you encourage them to tell one or both parents?

A Well, I talk about what their family situation is like and [37] what they think would happen if one or both parents knew about the pregnancy and the abortion and based on what feedback I get then we discuss it further.

Q Do many teenagers, let's say before the law, voluntarily tell one or two parents?

A I would say that before the law probably about 25 percent of them told one or both parents.

Q Why didn't they tell both parents?

A They have a whole lot of reasons for not telling their parents.

Q In the course of your business have you compiled those reasons for any official—

A I did. I did.

Q Who for?

A I compiled them for Suzanne Smith.

Q Who is she?

A The woman in charge of the guardians.

Q Guardians where?

A Hennepin County.

Q She asked you to make this list?

A Yes, she did.

Q And you made it in the course of your regular business at Meadowbrook?

A Yes.

Q To give to Smith to the Hennepin County Juvenile System?

[38] A Yes.

Q Could you read that list for the Court, please?

A We took these off of patients counseled and from patient interviews. These are why the minors told us, probably in a month's period of time, that they didn't want to tell both parents:

Feels she would be punished and not get to go to college as promised.

Parents are against abortion.

Mother has heart problems and there are family problems.

Lived with boyfriend for six months. Just moved back home, doesn't want to disrupt anything.

They are both in their sixties and have heart problems.

Mom opposes abortion—does not get along with parents, states none of the kids do, because of their beliefs on abortion. Has placed a child for adoption. Feels mom would have made her stay pregnant and raise the child. Just moved in with dad—afraid he would send her back to live with mom. Parents are strict and religious. Parents are going through a divorce.

Lives with stepmom. Father lives somewhere else.

Mother killed self ten years ago.

Disowned older sister because she got pregnant.

[39] Does not want to ruin a good relationship.

In family counseling, her psychologist sent her to Meadowbrook.

They would oppose the decision.

They would make me stop seeing my boyfriend.

Would be kicked out of the house.

My mother would not stand for it in her household. We have not been on speaking terms since age 12. This young woman is 17.

Has one year left at home and thinks it would be very uncomfortable.

Father deceased—mom only concerned with self and her new husband.

Sister was pregnant at the same age and caused a lot of family hurt.

Boyfriend closer to her dad than she is—would hurt his relationship with her family.

Father is a doctor, she works for him, knows he is anti-abortion. They have all talked about it and says her parents would never allow her to have an abortion.

These are common reasons why they would tell us they don't want to tell either parent.

Reasons why one parent is aware:

Told mom because, you should have parents during this time.

[40] Sees dad but they have poor communication so did not want him to know.

Q These are reasons why they don't tell the other one?

A Right, right. Father lives in Alaska, no contact for years.

Name on birth certificate only for child support reasons. Tried to locate dad, he was in prison. Went to court. She missed three days of school and mom missing two days of work.

Did not tell dad because he would hassle mom.

Father out of state.

Father sees her about once a year. He has promised to pay for her college and she is afraid he would change his mind.

Parents thought it would be good for her to go through court.

Dad not very understanding. None of the six kids like him. Mom is thinking of getting a legal separation.

Father would be disappointed and sometimes he is violent.

Father unaware, alcoholic.

He would get overly angry.

Says father is extremely fond of her and this would be hard for him.

Doctors orders not to tell father.

[41] Father not an active member of the family, unstable.

Didn't tell him because he couldn't handle it.

Couldn't get ahold of one parent.

Dad would hassle mom and blame her if he knew.

Father in another state. Says brother has little problems and she is anorexic because of dad.

Okay, mother was abusive and she chose to live with her father. She has had minimal contact with her mother since that time. Mother has undergone psychiatric treatment and has been hospitalized several times.

This was one who chose to tell neither parent and she said that three years ago her father found her older sister in a somewhat compromising situation with her boyfriend. She said her father became so enraged over this that he took her sister to a bar on Hennepin Avenue in downtown Minneapolis and forced her to sit and watch the prostitutes the way they were picked up by men. She said that he told her sister that if she were going to act like a whore she should see the way they live. This young woman felt strongly neither one of her parents should know she was pregnant.

Q Ms. Wendt, you have talked to thousands of teenage women in Minnesota. Do you think their fears are genuine?

A I think their fears are genuine and I think they don't even tell us half of what is going on in their families.

Q Why do you think that is, is that your professional [42] assessment as a counselor, that you don't even see half of what is going on?

A This is my professional opinion counseling women of all ages for a whole lot of years, women who are emotionally, sexually or physically abused tend not even to think of it as something they would tell you about. So you will always find under-reporting and people who work in medical clinics are real aware of that.

Q So if there is a situation of emotional or sexual abuse or battering that doesn't come right out, they don't—

A It often does not come right out. When I work as a nurse and do the physical exams, what we learn to pick up then is any unusual bruises or marks on women's bodies and if you generally—if you say to a woman tell me who hit you or tell me

what happened they will say nothing. They will say nobody did or nothing happened. But if you look at her and say tell me who hurt you like that or, you know, it looks like somebody did this to you on purpose, why did that happen—it is always the way you phrase it, then she will say that she has been abused or that she was assaulted or whatever.

So we see it in two different ways. I see it as working as a nurse and I see it working as a counselor. We learn different ways to pick up the abuse in the clients that we see and a lot of times it is sort of under the surface a little bit, you have to know what you are looking for in order [43] to be able to find it.

So the answer is yes, they don't always come right out and tell us that they have been abused or are being abused.

Q So you think that teenagers' assessments of their family situation or reaction are pretty genuine?

A I think they are genuine and I think they don't even know the extent that it is happening to them in their own families sometimes.

Q In your counseling, individual counseling sessions, or your work at the teen clinic, do you run into a lot of families in Minnesota where there is a battering situation?

A Run into it quite a lot. We have a format at the teen clinic we use where we ask them to check for us whether or not they have ever been physically or sexually abused and it is always amazing to me how many of them will check yes because—

Q This surprises even you?

A It does, it really does. And then I will also talk about it, I say, well, now, tell me, you checked yes here, tell me what this is all about and a fair number of them are currently in a situation where they are in danger and of course, at Meadowbrook and the teen clinic once I hear that then I am responsible to report to Child Protection, which just adds a whole other part to all of this.

Q How does, if you report to Child Protection something you hear from a minor at Meadowbrook, doesn't that compromise [44] her abortion privacy?

A Well, we are never quite sure about that. It seems to depend on the county we report to. I have gotten angry phone calls from parents who are furious because they find out I

reported a problem in their family and they just want me to know there is no problem here and the people I reported to will occasionally say to me, oh, the Smith family, we know them well, we have been dealing with them for a long time.

But by law in Minnesota we have to report when we hear that things like that are going on.

Q So if you report to Child Protection then doesn't the family find out that the daughter was at your place for an abortion?

A Sometimes they do.

Q Isn't this a conflict?

A It is very difficult for us.

* * *

[47] * * *

Q As if you could waive that?

A Right, right. They are very frightened about the court bypass. They are very nervous about that. They don't understand. Even those who have been in court before have been in court because they have been in trouble with the law or they have been involved in their parents' custody or divorce so either they know nothing about the court or their experience has been pretty negative.

So we want them to know that they have a true option that they can either tell one or both parents or they can go to court.

Q Do they understand the biological parent distinction?

A Not always. Not always. We will say over the telephone this means both of your biological parents. Do you live with both of your biological parents and if a mother calls or a [48] father calls then they are going to bring consent from the other parent. We say this is her biological father and mother, and it has totally changed the way we make appointments going over all of this.

* * *

[53] Q Is it your professional opinion that the physical abuse exception in the law does not really except those kids who are subject to physical abuse?

A That is correct.

Q The law doesn't require that it have been reported but does Meadowbrook have any internal policies on that?

A Well, can I read this phrase in here?

Q Yeah, read the phrase in the law, refer to the law. In fact, that would be very helpful to the Court, I think.

A Well, it says if the pregnant minor woman declares that she is a victim of sexual abuse, neglect or physical abuse as defined in Section 626.556, notice of that declaration shall be made to the proper authorities.

On the next page, "A person shall not be held liable under this section if the person establishes by written evidence that the person relied upon evidence sufficient to convince a careful and prudent person that the representations of the pregnant woman are bonafide and true."

Well, that doesn't say a lot about what kind of information we need and we never felt that if she just said on the telephone she was a victim of sexual or physical abuse that that would be enough to satisfy the law. When we see women who are pregnant from rape or from incest our policy is that we do an abortion at no charge for these women if it has been reported to the police or a rape counseling center. So [54] we already had a policy on sort of how we defined this.

Occasionally we have had a young woman come in who is like pregnant by a father and the case is in litigation and clearly it has been reported to child abuse authorities and, you know, that is all we do.

But as far as those young women who are physically or sexually abused we don't—we do require that they go to court in order to satisfy the law.

* * *

BY MS. BENSHOOF:

Q Why is that?

A Because I feel that that sentence is very unclear, that it says that I can let her go through without either telling her parents or going to court if I have reason to believe that she has been physically or sexually abused and if it has been reported to the proper authorities, but by whom, by her, by me, you know,

how much abuse, what are the constraints here, what is the definition of this.

Q Have you discussed this Meadowbrook policy with your doctors?

A A lot.

[55] Q And how do they feel that you should interpret this?

A They feel that I should always act as conservatively as possible.

Q Why?

A Because they feel that they are liable if they do not uphold this law.

Q What happens if a minor comes in and says here is a note from my mom, notarized, and my dad is dead or a minor and her mom comes in and says dad is dead. What do you do then?

A If they tell us one party is deceased we ask them to bring us proof of that which is either a death certificate or some other mention of the death like in the paper or from the funeral home.

Q Well, when you require minors or mothers who have lost husbands to bring in death certificates or funeral home certificates, isn't this a little traumatic?

A It is for a lot of them. They are very upset that we won't take their word for it. The reason we don't take their word for it is that in the beginning of all of this we had cases where a parent would come in with a daughter for a pregnancy test and say they wanted an abortion. We would say the biological father has to consent or you go to court and the mother would say, but he is dead, and I would say, well, you know, when did it happen or I need some sort of a notice of this and then she would say to me, one woman said to me, well, [56] he is in Louisiana, and then I said, we have to send a letter of notice to him or you need to go to court or you need to get a notarized letter from him and then she told me that he lived on Portland Avenue. So we had enough of those cases occur that we didn't feel that we could always take our parents' word for what the situation was and my doctors always look over the charts and they always look to see how this law has been upheld and they felt that we needed some verification of this in the chart.

But it is a difficult thing to bring up with people especially sometimes, I think especially mothers more than anybody, it is like they are dealing with this problem with their child now and then we ask them to revert back to another kind of problem.

Q Give an example.

A It is hard on the minors too, they will bring in death certificates, like, you know, mother murdered, found dead in field.

Q Is that a real story?

A It is a real story. Or father suicide, shot his brains out. They will come in with these things and it is like you can't just put it in the chart and never comment on it so then most of the counseling session we talk about what happened in the family and then how everything is going now and how has everything gone since.

[57] Q So often instead of focusing on the minor and abortion you have to give therapy for the suicide or death?

A It gets all brought up for them.

Q Do you find that has changed the nature of counseling?

A It does. Sometimes, I mean, this whole law, in a lot of ways has changed the nature of what we did. If she is going to be a court person we spend most of our time in the morning talking about going to court, getting to court, what it is going to be like, what kind of things she needs to know.

Q Just back up a minute; you say in the morning, you mean those minors who are going to court must come at 7:30?

A Right. The judges in Hennepin County want the minors to be counseled by Meadowbrook staff or abortion clinic staff before they go to court.

Q Is that the legal requirement?

A That is not a legal requirement—it is a request they make.

* * * * *

[60] * * *

Q And as a counselor how do you feel about this? What is your professional opinion about this change in counseling of pregnant minors for their emotional and psychological health?

A I think in a lot of—in a lot of ways they are being short-changed now and it is very different for them than it was before

we had this law. Even when they come back from court between 1:00 o'clock and 2:00 o'clock they have been up for a long time and they have been busy for a long time and they still have—wouldn't have had the abortion done yet. We feel we can't burden them anymore by taking more of their time and energy and doing this huge counseling session again. So what we do is we move them all ahead to the cashier and we move them all ahead to procedure. They do see a counselor again when they come back, but they are hungry, tired, sick, a [61] lot of them, and they just want to do this and get this over with. They have been very burdened for a day, a couple of days because of this. So it has changed from the way it was before. We don't have the kind of time to spend with her talking about her relationship with her parents, her relationship with her boyfriend, how she feels about sexually active at 16, what are her thoughts about contraception. We still do it all but we used to have more time to do it before. I think that we used to establish more of a relationship with her.

I think that part of what we do is we are sort of role models and teachers for them because they are young women who are sexually active and they got pregnant and they are having an abortion and some of them aren't very good contraceptors yet and they are good medical consumers yet so we try to do a lot of them with our young women and the law makes it a lot harder for us, makes it a lot harder for her to get what she needs.

Q When you counsel a minor at 7:30 in the morning, who might have been up driving for two hours, are her concerns in counseling on the abortion or the court?

A Her concerns are not on the abortion until she comes back. It is like they put it on hold until they come back. They will go to court and be very determined about that but they are very afraid they are going to be denied and they always want to know what the judge is going to ask me and is he going to let [62] me have the abortion.

Then when they come back it is all of a sudden they will be overwhelmed by this fear of what they have to do next because the next thing they have to do is go in there and have the abortion. All of a sudden they realize, oh, I have to go do something

that is going to be painful. Now that I have done all this, this is now, I have to do this too.

Q Are they often physically ill in the morning from being pregnant?

A They are. A lot of our patients are and they are too. It is just that our other patients get to come in, get the abortion done a lot sooner.

Q I mean, I guess what I am asking is a medical question, is morning sickness really in the morning?

A For a lot of women it is.

Q So that the counseling to get them to court and getting to court is the time of the pregnancy sickness time?

A Uh-huh. And we always hold food for our patients. With our minors we have to always remember to say, now on your way out of the building stop at the coffee shop and buy a roll and a glass of milk because she will not be back until 1:00 or 2:00 in the afternoon, she will be dizzy, sick, and the procedure will be harder on her and a lot of times she will say I don't want to eat in the morning, I don't eat in the morning. I will say please eat a roll and drink a glass of milk because I am thinking of what she will be like when she comes back.

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[65] * * *

BY MS. BENSHOOF:

Q Ms. Wendt, since August 1st, 1981 and to the present, how many minors have been patients at the Meadowbrook Clinic?

A Up until December of 1985 we have seen 2895.

Q And how many of these minors went to court?

A About half of those minors went to court.

Q Do you have the exact figures?

A 1160.

Q Out of those 2895 minors, do you know how many came from Hennepin County and how many from other parts of Minnesota?

A The number of patients who come from counties other than Hennepin and Ramsey was 1880.

Q And how many of those patients were second trimester patients, those minor patients?

A Of the total number of minors seen, 672 were second trimester abortion patients.

Q Ms. Wendt, getting back to where we were stopping your testimony yesterday, you stated that your clinic requires that when a minor chooses not to go through the court bypass system [66] or have mailed notification, she brings in a letter from both parents or brings both parents to the clinic with her, is that correct?

A That is correct.

Q What kind of letter do you require?

A We require a letter consenting to the abortion that the parent signs and has notarized.

Q Why do you require that this letter be notarized?

A We feel that that is the best way to know that these are indeed her biological parents.

Q Do you send minors back out of the clinic if there is improper compliance with this requirement?

A Yes, we do.

Q How often does that occur?

A It happens about once a week.

Q Do you know how many minors you sent back in the month of January because of improper compliance?

A In the last two weeks of January I think it was two.

Q Do you know the circumstances of those two minors?

A Yes, I do. Let's see—well, let me think—one was a young woman who came in with a father and did not bring a notarized note from the mother so we had to send them back to get the note from the mother notarized.

Q Do you know how much travel time was involved in that particular minor?

* * * * *

[73] But that happens sometimes when we send these letters, so—

BY MS. BENSHOOF:

Q Did they understand why they couldn't have the abortion that day?

A No, not really. They didn't quite understand that there is a time delay that we have to adhere to or that we feel we have to adhere to.

Mom, as a custodial parent, was very upset that dad had to be notified at all. They had the option of going to the court but they did choose to send the letter. They didn't think they would have to end up speaking to him about it.

Q How pregnant was this young girl?

A She was eight weeks pregnant.

Q So the delay in this instance didn't cause a change in the cost of the abortion?

A No, it didn't cause that. It did delay her four days and it upset the mother and daughter very much and upset the man in Detroit also very much.

Q How far did they have to travel?

A They came from Plymouth, so probably about 30 miles.

Q You stated that one of the options under the law is that your minor patient can choose to mail notification to both parents.

About how many of your minor patients choose this option under the law?

[74] A About 4 percent choose to mail letter of notice to a parent. They could mail to both parents, usually it turns out to one parent and it is usually an absent parent; someone who has been absent for many years.

Q So this option is really chosen by those minors in two biological parent families?

A Correct.

Q You stated 4 percent. Do you know about how many a year then choose this option?

A Probably about 20 or 24 a year will do this.

Q Do you know about—if you don't—if you could give an educated approximation, how many of your minor patients actually live with both biological parents?

A I think about 25 percent live with both biological parents.

Q Live with. You testified earlier that about 25 percent tell both biological parents. Do you know how many live with both biological parents?

A Oh, it would be about 50 percent live with both.

Q In contrast to the timing for a minor who chooses mailed notification, how is the time for adult women different?

A Adult women have no time constraints at all. They can call—

THE COURT: Excuse me for interrupting; you say she said 25 percent tell their parents, I understood her to say [75] that before the law 25 percent of the minors told their parents.

MS. BENSHOOF: Right. She said before the law 25 percent told both parents. More told one before the law, she testified 25 percent told both.

THE COURT: I didn't get both. I got parents. Is that what you are telling us?

THE WITNESS: Uh-huh.

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[76] * * *

Q When you tell minors, and you have done this personally hundreds, thousands of times, that there will be a three-day or more delay once the letter is mailed, what are their reactions?

A Well, they don't quite understand why that has to be. We just tell them that it is arbitrary, the law has built into it this amount of time that is a waiting period. It is a difficult decision for them to make whether or not they want that letter sent in the first place because, of course, there is a chance that it will reach that parent and sometimes that is the only contact that they will have had in years and they are very mixed about it. So on the one hand they would like some [77] contact with the parent but they are embarrassed and ashamed that it is a pregnancy-related kind of contact.

Q How do the mothers that accompany the minors who have to have a mailed notification to an ex-husband or a never husband react to this statement by you that they must mail and then wait?

A They generally react with anger and frustration and irritation and then tell us—tell me the stories of their various separation, child custody battles and money problems. So we get into all of the things that happened when that relationship split up and a lot of it comes back again. I have to talk to mothers who were interested in pursuing child support with the absent father and use this as a way to find out where that man is through other relatives and it is, you know, that is not even what is happening with her minor daughter and being in our clinic, but that is like a secondary thing that starts because of that.

Q You say the focus then goes away from the minor to the whole family problem.

A It goes back to the marriage.

Q What reactions, if any, has Meadowbrook gotten from parents who received the mailed notification?

MR. GALUS: Objection, hearsay.

THE COURT: Objection overruled. It is admissible not for its truth but just what was said, it seems to me—I [78] guess it does, its truth is the significance of it. You may answer; go ahead.

THE WITNESS: Okay. I am the one who gets the telephone calls when the parents who receive the letter are very angry about getting the letter, finding out that their daughter is pregnant and being notified of the whole situation.

We have a letter we send that has the minor's name and the date of the abortion and then in the body of the letter is something about, you know, a teenage pregnancy is difficult for everybody and we ask you give her your love, care and support at this time. We thought we would soften it a little bit when we send these letters and we don't hear from them very often, but when we do the absent parent is usually very angry and it has to do with their not feeling we have a right to do an abortion at all on their daughter.

They are not sure they want her to have one, even though they haven't seen her for years and they are really angry with the custodial parent who usually is the mother for letting this happen, letting the daughter get pregnant.

Occasionally we will be threatened by an absent parent. There was a big family argument a few years ago where a mother brought a young daughter to the clinic for an abortion. The father received a notarized letter—I mean, a certified letter informing him. He called the clinic, was anti-abortion, was going to stop the abortion from [79] happening. We told him he could not.

Q You spoke to him?

A My former boss spoke to him and I sat in her office because the patient was my patient. As the administrator of the clinic she spoke with him. We told the mother that we couldn't see her daughter for an abortion until all of this calmed down because this whole extended family was getting involved in this and the mother said don't worry, I will take care of it. She drove over to the father's house and shot her gun through his door and came back and said he will not bother you again.

Q The mother had shot the father?

A She didn't shoot the father, she shot the door.

* * * * *

Q Was this reported to the police?

A I don't know.

Q Did you then proceed with the abortion?

A Yes, we did.

Q Was there a delay because of this?

A There was some days delay there.

Q You have stated that you have gotten reactions to Meadowbrook from mailed notifications. Do you have any [80] personal knowledge as to what effect the mailed notification has on the minor or her parent that is in your charts?

A From talking to some of them, when they come back for their checkups—

Q How long after the abortion?

A Two weeks after the abortion, after talking to some of them when they bring their girlfriends back from abortions, I don't know of one instance where contact with the absent parent has been reestablished because he or she got the letter; even when there was contact at that time. So I feel badly for the kids because that is something that they want and yet, you know,

over a short period of time after the abortion I know from them that that has not happened.

Q By contact do you mean—what do you mean by that word, "contact"?

A That the parent would call again to see how she was or would say, you know, I would like to start seeing you again or spend some time with you. That is what the minors tell me that they would want from sending that letter or from having some sort of a forced contact with him or her.

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[85] * * *

Q As a counselor and nurse do you believe that some of this parental notice that you have just described, is that detrimental to the minor's health?

A I think it is detrimental to her emotional, psychological, primarily those two aspects of her health and also her physical health if it delays her getting the abortion.

Q Has a parent contacted pursuant to the law ever contacted the minor to help with medical information on a minor?

A I have never had a parent contacted to give me medical information on a minor.

Q When a parent comes to the clinic with a minor do you take the medical history with the parent present or not?

A We always see our patient alone when we do the medical history, we feel that—

Q Why?

A We feel we get more accurate medical history if there is nobody else there, particularly with the minors because they will have some aspects of their medical history that their parents do not know about and we want to know those things; like drug use, problems with drugs, suicide attempts, accidents, other kinds of thing that they have been involved in. They generally won't tell us all of those things if there is a parent in the room.

[86] Q You said suicide attempts. Are you saying that you find out about suicide attempts that the parents don't know about?

A Yes, we do. We ask—we check that out with all our patients. When women call and we make the appointment we

ask each patient if she has ever seen a counselor, a psychiatrist, attempted suicide, or been hospitalized for depression. For women who have had those kind of histories we want to make sure before they come that they have access to psychological help and support if they need it and then the nurse asks it, then we ask her also to fill it out on the self history sheet and the nurse will ask it again when she does the exam. We find lots of women of all ages who have had varieties of emotional problems or problems with depression or suicide attempts and a lot of teenagers make suicide attempts that nobody ever knows about.

Q Does this surprise you?

A I don't know if it surprises me, I think after all this time it doesn't surprise me. I think what I get concerned about is nobody knows about it and if these things haven't changed in her life, then I am afraid that she is at risk for having it happen again.

Now this shouldn't be a secret that she carries by herself.

Q When you find this out do the counselors discuss the problem with her?

[87] A We always discuss when it was, what happened, what she did about it. It is pretty common for—well, when people make suicide attempts if they have to go to the hospital they will be seen in the emergency room but never see a counselor-therapist or psychiatrist. So we have lots of women who try to kill themselves who have never seen anybody therapeutically which I think is amazing and our requirement is that if somebody has attempted suicide within the last three to five years and it was a true attempt, like they took enough pills to truly kill themselves, then we require a psychiatric evaluation before we do the abortion.

Q So you find out from your interviews with the minors that they have not told their parents about the serious problems in their life?

A Those personal emotional feelings that they have, yes.

Q When you have minor patients who come in with one parent with them, does that one parent come in and sit down and talk to you and tell you why they think the other parent shouldn't be notified?

A Yes, they often do that. We also see the patient—

Q Could you just describe what process you go through in talking to the other parent and what reasons they give you?

A We always talk to the patient alone first, and in this instance the minor patient, and then when we have the mother sign the consent form or the father sign the consent form, [88] then we talk to them about how all of this has been going, do they have any questions, and generally we don't solicit their feelings about the law or their feelings about going to court or notifying a parent, they tell us how they feel about all of this.

The basic feeling is that they feel it is a real infringement on their privacy and their rights as custodial parents. A lot of mothers or custodial parents who have been through a bad divorce, I think that the divorce means that the absent parent has no legal rights at all to that child and they don't understand that it has to be "termination of parental rights", and that happens rarely. So they have been believing that the other parent has absolutely no right to know anything about that child that they are raising and then we tell them that either they have to go to court or they have to get a letter of consent or we have to send a letter informing that absent parent, and they are very angry about that. They want us to do something about it.

THE COURT: It appears that you are.

THE WITNESS: You mean right now?

THE COURT: Right at this very moment.

THE WITNESS: Right at this very moment.

BY MS. BENSHOOF:

Q They want you to do something about it. Are some of the women battered?

[89] A Yes, some of the women are battered, they have been in bad marriages and been left with no money and they have been raising these kids and they feel they have been very burdened by these bad marriages.

Q Do some of the battered women feel that notice to their father is going to invoke a battering incident?

A Mostly the ones who are still living with that man, they will—the daughter and the mother will sometimes tell us that

they can't let him know about the abortion because he would be very angry and blame the mother and take it out on mother. I think we find more women who are being battered in these families than we do minors. It is unfortunate that this is another way that the minor gets involved in her parents' marriage because it is—she is pregnant and she is trying to decide whether or not to have an abortion and her parents' marriage shouldn't really affect that.

But what happens is the mother will be so angry or worried or concerned when we all three talk together we end up talking about the marriage and the temper of the father and what he is going to do to the mother and the daughter is supporting the mother in the bad marriage.

Q In your professional opinion, based on seeing thousands of these cases, is the two-parent notice requirement the burden on single-parent families?

A It is a big burden on single-parent families and in a lot [90] of ways.

They simply do not understand why it has to affect them at all for a lot of them that marriage or relationship is considered over. There is very little contact with the absent parent, and just the very thought, even if there is a court bypass, just the very thought that they might have to contact that parent or might have had to contact that parent enrages them.

THE COURT: You say a notice, in two-parent families?

THE WITNESS: One custodial parent families.

THE COURT: Okay.

THE WITNESS: they have a very hard time with that and even if there is a court bypass they a lot of times go with their daughter to court, they feel strongly that if the daughter chooses to tell them that they should be the only person involved in this decision and they don't like letting the people at court know their private business, the custodial parent doesn't.

The minors don't either, but the parents have very strong feelings about this.

Q Would you say that counseling of patients has changed since the law was implemented in Minnesota as far as your clinic practice is concerned?

A As far as the kind of counseling I do, before the law, [91] if I was dealing with a patient and custodial parent we would talk about their relationship, how they were each doing.

Q You mean—"they" meaning the minor and the—

A The mom and the daughter, how mom was doing knowing about the daughter's pregnancy, how they were getting along what effect it would have on the future and I still talk about those things. But now I have to add in the part about how was court for you and then hear about the marriage and all of those other problems, that sort of get reawakened by having to comply with this law.

Q Have you been aware among your patients of violence to occur within a family because of knowledge of the teenager's pregnancy?

A Yes, I have, in many, many cases.

* * *

[92] * * *

BY MS. BENSHOOF:

Q When violence occurs, is this noted in the patient's charts?

A Often it is, especially if it happens at the clinic.

Q And do you have personal knowledge of violence occurring at the clinic?

A I do.

Q Could you tell the Court about that?

A A couple of weeks ago a young woman came in with both of her parents. Her boyfriend wanted to be a support person so he came also with one of his friends and the mother found him in the lobby and told him he had better leave and the two young people said he was not leaving—

MR. GALUS: Excuse me, I would like to move to strike that conversation in the lobby.

BY MS. BENSHOOF:

Q I would like to go back a minute, Ms. Wendt; you stated that a young girl came with two parents. Is this someone who chose not to go through court?

A This is somebody who because of time involved couldn't make it through the court process and out of desperation had to tell her parents.

Q This is someone who tried to go to court but couldn't?
[93] A She wanted to go to court but she couldn't make it. She was trying to go to Ramsey County Court and with the appointment to go to Planned Parenthood and see a counselor and then to see the public defender, to go to court, she ran out of time. She got grounded for some other reason at home and knew she had to tell her parents finally in order to get to an abortion clinic to have the abortion.

Q This is one of your patients?

A This is one of my patients.

MR. GALUS: Your Honor, I would like to move to strike that portion of the preceding answer referring to experiences of this person with the Ramsey County Court system and the public defender in the absence of any foundation as to this witness' firsthand knowledge of those experiences.

THE COURT: Objection overruled and the answer may stand. Go ahead, tell us about the story.

THE WITNESS: So the father went into the lobby and beat up the boyfriend in the lobby.

BY MS. BENSHOOF:

Q Were others of your patients in the lobby?

A There were about 50 people in the lobby and one of the nurses heard the noise and ran out there and told this man he had to stop and he had to leave so he dragged the boyfriend out to the front desk and threw him into the wall a couple of [94] times and then he left.

Q What did you do about this situation? You were in charge then of the situation, is that true?

A I was in charge of the situation. We called hospital security—

THE COURT: Maybe I don't have to know all of the details of it, counsel. What do I care what she did.

MS. BENSHOOF: Okay.

BY MS. BENSHOOF:

Q What happened to the minor after, and her pregnancy, after this violence occurred?

A Well, there was so much arguing going on between the minor and the mother that I said they could not have the abortion on that day until things calmed down.

What ended up happening was that the minor got kicked out of her house, went to live with grandma, and got kicked out of grandma's house and the last I heard was living with the boyfriend's sister.

Q When you testified a little earlier that about 1800 of your patients have gone to court, is that the right figure—1160 of your patients have gone through court—

A Right.

Q Do you know approximately about how many of these patients have gotten certified as mature and how many as best interest?

[95] A Well, in the last three months of 1985 51 percent were certified as mature and 48 mature and best interest.

Q So 99 percent were mature?

A Correct.

Q But some were also checked best interest?

A Correct.

* * * * *

Q In this three-month figure that you testified about you said that 99 percent were mature.

[96] How many were found best interest out of that group of minors?

A 1 percent was found in best interest.

THE COURT: Well, now, wait a minute, you have given me percentages, 51 percent and 48 percent of the 200 and then one is best interest?

THE WITNESS: One person was marked in best interest.

THE COURT: All right.

BY MS. BENSHOOF:

Q Are you familiar with the patient file of that one person?

A I am.

Q And have you brought that file with you today?

A Yes.

Q Could you describe that one best interest minor for this Court?

A She was a young woman who was 17 years old who is in school and works. She will be 18 in March. She is a regular contraceptive and she has had regular medical care in the past.

Q Are those all indications to you as a professional of maturity?

A Yes, they are.

* * * * *

[106] * *

Q Can teenagers get one-day D&E procedures when they have to go to court?

A They cannot.

Q Why not?

A Because they have to be in court at 10:30 in the morning. We insert all the laminaria between 9:30 and 10:00 o'clock in the morning. Once you put the laminaria in the cervix the abortion has begun and we can't insert laminaria and send them downtown to go to court because their petitions have not been approved yet. So for the teenage women who go to court what would be a one-day process for her will become a two-day process.

Q How do the teenagers react to this?

A They are resigned to it. They know that there is no way out of it. They don't have any other options, you know, they

want the abortion badly enough, they will do anything that we tell them that they have to do.

It is very hard for them a lot of times; they will end up delaying even more because sometimes they can't come back the next day to have the abortion done so they will come in, get prepared for court, go to court, and come back and reschedule for another couple of days or reschedule for another day. So it will complicate the whole process for them quite a lot.

[107]

* * * * *

Q From your experiences you have described about what teenagers go through, to get to court, and to go through court, they are pretty desperate to have that abortion without parental knowledge; is that your opinion?

A When they went to do it without telling their parents, they feel very strongly about doing that and they will make arrangements that they need to make. I can't believe sometimes that they can actually get to the clinic and make all of these arrangements and carry it all out. It astonishes me. I forget [108] sometimes that they don't have the same—they don't have the same sort of freedoms that I do, they don't have the money, the time, the privacy. They will come, it is not infrequent, to have Methodist security tell me that they found some of my patients sleeping in their cars in the parking lot or they spent the night in the hospital lobby. I forget they sometimes don't have money for food and motel, you know, so they will do anything to get these arrangements taken care of.

Q Do you have a patient example in January in which the patient, because of this law, could not obtain a one-day dilation and evacuation procedure?

A I do. I know of many cases like this but this is one specific case. What the minors will occasionally do when they make their appointment is tell us they are 18 and we will tell them they have to bring identification when they come and in this particular case, of course, she said yes and she came to the clinic and we asked her for her identification and she told us she was 16. They seem to think that if they—

Q What day did she come to the clinic?

A 12/23. They seem to think if they just get there and show up we are not going to turn them away.

Q But do you turn them away?

A We always do. So we told her about court and she got an appointment for January 2nd and we inserted laminaria for her on the 6th and did her abortion on the 7th. So she went from [109] being 16 weeks pregnant to being 19 weeks pregnant before she finally got the abortion.

Q How come? Do you have any personal knowledge, or if it is in your records, why she had to wait from 12/23 to January 2nd to get to court?

A I don't know that.

Q Why—how much did the abortion cost increase?

A It increased \$100 for her.

Q And there were how many days delay?

A There were—it took her 15 days from the first contact until the abortion was finished.

Q So she had a 19-week abortion?

A Correct.

Q If this law was not in place could she have had her abortion accomplished in one day?

A She would have had it done on the 23rd and it would have been done in one day.

Q Do you know if she had one supportive parent?

A She didn't have either supportive parent.

She ended up telling her sister, who lives in Minneapolis because of our requirement that she spend the night in the city.

Q Based on your experience with this law, with your patients at Meadowbrook, has the parental notification requirement delayed abortions for teenagers?

[110] A It does delay them. It delays them for a whole lot of reasons. This is just sometimes involved in understanding what the law is and deciding what they want to do and then deciding how they are going to carry that out. So really no matter which option they choose there is always a delay. Even if they have two supportive parents we require that they either bring the parents to sign the consent and we check ID on the parents, or she has to bring a notarized letter of consent from each parent.

So, you know, before 1981 she would just come and say, yes, I told my parents and we are getting along fine about it, but now even for those families there is some delay involved plus the original delay in telling her parents in the first place, if you are pregnant.

Q As a counselor and nurse what is the effect of this delay on the minor's physical or mental wellbeing?

A Well, I believe that would she be able to have the abortion as soon as she can make arrangements like a woman of any other age, even a delay of three or four days or a week in my opinion is damaging for her physically and emotionally. I don't believe she should have to go through that to obtain an abortion. There are different kinds of burdens depending upon how she has chosen to satisfy the law which we see repeated over time. It is not really easy for any of them. I think it depends on her individual situation, of course, which [111] ends up being the worst; but even in families where the minor lives with a supportive custodial parent and decides to tell that parent they still have to decide and they usually decide together whether to inform the absent parent or whether to go to court.

So there is an increased burden on certainly the minor and her abortion decision, and also on her mother or the custodial parent because it brings in that whole other problem of what happened in the relationship between the two adults. So the minor is definitely burdened by her mom's feelings about all of this and what might happen now with the absent parent.

For those who go to court in some ways it is easier for them because their parents never do need to know, but it takes a lot of planning and a lot of determination for them to do this. There are a lot of arrangements for them to make and they feel very sensitive and embarrassed about letting a group of strangers know that they are pregnant.

Q What do you mean by a group of strangers?

A The people at court. It is a whole new group of people that they need to meet in addition to the people at the clinic and they feel very sensitive and embarrassed by people having to know their personal business. Teenagers tend to feel that way. But to have something like this be so public is very hard for

them. They always are real concerned about what kind of [112] questions are going to be asked them.

The custodial moms who go to court are also concerned about that. They have real negative feelings about having strangers involved in their life with their child in the way they are raising their child, so there is a lot of anger and resentment about that. That is more from the custodial parent. The teenagers are just sort of more sensitive to it and embarrassed and ashamed by all of it.

Q You stated that the teenagers feel shamed. Do you feel this shame at going to court based on your experiences as a counselor is something that will last all their life for some of them?

A I think for a lot of them this whole pregnancy-abortion-complying with the law scenario in their lives is going to be active for them for a long time. What I know from the past is that when they told supportive parents and had supportive parents it could turn into a positive experience for them, but the law makes them do a variety of things. I mean, they can choose one but they still have to do something to comply and it is not really their free will anymore and they are telling people in a lot of ways what is going on for them privately.

It depends on what the experience was like. Some of them are upset about going to court, they feel like they have done something wrong or they have had to prove why they should be able to have an abortion. I used to see that when [113] I sent women out of state, they would try to prove to me they should be able to have an abortion. I was always saying you don't need to have to prove that to me, that is your right and the kids say that about going to court too. Where there is the most negative impact I think is when they tell parents they should not have told.

Q Because court isn't an option?

A Yes. For a variety of reasons they don't believe it is an option, they are afraid of it, they are not sure they could work it out for themselves. So for a lot of them the minute I say court it is like they go deaf, it is no longer something that they hear me talking about. So they tell parents who ordinarily they would not have. This is one of those kinds of things that parents don't

let go of. For some parents once they know their daughter has been pregnant and either had a child or an abortion the whole thing about trust, responsibility, being mature, a lot of times the teenagers have problems for a long time because of this.

THE COURT: Are you suggesting they don't have problems just by virtue of being pregnant and having an abortion? Isn't that traumatic?

THE WITNESS: Yes, it is.

THE COURT: Notification or no notification?

THE WITNESS: I think it is very true it is a very difficult situation for any woman. Sometimes the teenagers [114] seem to do better with it because they know they cannot be a parent. Older women will tend to be more ambivalent about whether it is the best decision. So just being pregnant and deciding what to do is incredibly stressful and the patients have generally used us or the clinic as a way to work that out and as a resource in the future also. So we find that when they tell parents who are not supportive it becomes even more traumatic for them.

BY MS. BENSHOOF:

Q To follow up the judge's question, this is a very vulnerable time, let's say a minor has a support system erected for her; when she goes to the clinic, like she has told her mother or her aunt or her boyfriend's parents, does the notification process—how does that affect this support system that has already been erected to help the girl?

A Well, that same support system stays there and usually we meet those people, but then those people will end up also being involved in the court or the notification process. So it becomes very large for a lot of these young people.

Q Would you say for some minors their present support systems are undermined by this interference by the state?

A I would say—I don't know I would say that compliance with the law doesn't allow them to turn to their best support persons all the time; that where a lot of them would have done it alone with a supportive boyfriend or sister or maybe school

[115] counselor, they are not allowed to do that anymore. They are being forced to involve other people in their decision.

Q Do you believe that forced notification, that is those minors who are either forced to tell their parents because they can't face court, or those minors who have gone to court because the law requires it, do you believe that system has improved the quality of the minor's abortion decision, your patient's—your patient's abortion decisions?

A I believe it complicated their abortion decision and it has complicated it for them even after the abortion.

* * * * *

CROSS EXAMINATION

BY MR. GALUS:

[140] * * *

Q Ms. Wendt, irrespective of any directive from any Minnesota state court concerning counseling, does Meadowbrook in the ordinary course of its business examine minors, cause minors to be examined by a physician before performing the abortion?

A Yes. Every patient is examined by a doctor before having an abortion.

Q And irrespective of any obligation of the statute at issue in this lawsuit, or any directive from Judge Oleisky or any other court, it is true, is it not, that Meadowbrook, in the normal course of its business, explains aftercare procedures to its patients?

A Yes.

Q And it does so in a manner that will make those procedures understood?

A Yes.

[141] Q Irrespective of the statute at issue in this lawsuit, for example, those minor women who were not going through the court process, is it Meadowbrook's standard practice to inform patients of any medical complications that can occur?

A Yes, it is.

Q An attempt to see to it that the patient understands those complications?

A Correct.

Q And I take it that in a normal course of your business even for those minor patients not affected by the obligation to go to court, you take care to see to it a true statement of medical history is given to a physician?

A Yes.

Q I take it irrespective of the statute and irrespective of that class of minors that are going to satisfy the statute by going to court, I take it a physician advises—it is the practice of Meadowbrook to advise each of its patients as to any additional physical risks—I am sorry—that may be present because of any anomalies in their medical history?

A Yes, it is.

Q And I take it that irrespective of any obligation imposed by a court or by the statute it is the normal course of Meadowbrook's business or the normal nature of its counseling to have the minor sign an informed consent form, correct?

A Correct.

[142] Q Including a statement about the physician's liability.

A Correct.

Q And you in the course of—you counsel all of minor patients, do you not?

A Yes, we do.

Q Even those that are not going to court?

A Yes, we do.

Q Irrespective of any court-imposed requirement of counseling, is it the normal course of your counseling to counsel as to pregnancy alternatives?

A Yes, it is.

Q And including abortion, adoption, marriage and single parenthood?

A Yes.

Q Okay. And in the course of counseling you try to draw out the young woman as to whether or not you feel she needs any additional counseling, is that correct?

A We make that assessment, yes.

Q Do you counsel irrespective of any directive from any Minnesota court or any obligation imposed by the statute at issue in this lawsuit? Is it the normal practice at Meadowbrook

to counsel pregnant minors as to possible emotional and psychological problems that she might experience after abortion?

A We counsel all women about those possibilities.

[143] Q And do you counsel as to methods of contraception that are available?

A Yes.

Q Irrespective of the statute?

A Correct.

Q You did that before the statute?

A Correct.

Q Do you determine whether or not that the pregnant minor wants to have the abortion?

A Yes, we do.

Q And you do that irrespective of the statute?

A Yes.

Q You did that before the statute was enacted?

A Yes.

Q And even before the statute was enacted and irrespective of the statute is it Meadowbrook's practice to determine whether the young woman has been coerced by any party?

A Yes, it is.

Q Before the statute was enacted in the course of the intake process or the counseling process, was it Meadowbrook's practice to determine whether or not the young woman lives with her parents?

A Sometimes yes, sometimes no. We didn't ever mark that on our charts as a matter of form.

Q Did you inquiry into that as a matter of practice?

[144] A Generally it would have been discussed.

Q Okay. And if she didn't live with her parents was it your practice, even before the statute was enacted, to inquire where she did live if she didn't live with her parents?

A Yes.

Q Did you inquire as to the source of her financial support even before the statute was enacted?

A No.

Q Okay. Now that none of that information was relevant to billing, or it was—

A We are a fee-for-service clinic so generally not.

Q You didn't inquire as to source of financial support?

A Generally not.

Q Okay. Did you determine in the course of the intake process or the counseling function even before the statute was enacted whether or not she was attending school?

A She would fill it out on her self history form so generally we would know. We wouldn't necessarily inquire.

Q You would know from the form?

A Generally.

Q It was information you would have?

A Uh-huh, generally.

Q And then that—in what cases wouldn't you have it?

A If she didn't fill it out we wouldn't necessarily write it down.

[145] Q Did that also include her grade?

A The last grade completed in school has been on some of our forms.

Q Before the statute—I am sorry—

A I am not sure at what time it was or was not on the forms.

Q Okay. Do you obtain information today as a matter of practice or is the form designed such that that information will be elicited even with respect to those young women who are not going through the judicial bypass proceeding?

A Correct.

Q Through the intake process or the counseling process is it—was it your normal practice before the statute was enacted to determine whether or not a pregnant minor was employed?

A That too sometimes she would fill out on the form but we didn't ask it as a standard question.

Q Well, was the form—was there a question on the form, "Are you employed?"

A There is now. I am not sure when that form was changed.

Q And do you ask that information even of your patients who aren't going through the judicial bypass?

A Sometimes.

Q Well, is the form designed to elicit that information?

A Yeah, but whether or not we talk about it will vary.

[146] Q Okay. In the course of—the nature of your counseling before the statute was enacted did you—was it the practice

of Meadowbrook to speak with the young woman about her plans for the future such as schooling, employment or otherwise?

A Sometimes.

Q What would determine the times you did and the times you didn't if you know?

A It would depend what the counseling session was mainly focusing on, which issues would come up.

Q And it was nondirectional from your perspective?

A Fairly so. I mean, whether she was more confused about whether or not to have an abortion at all or something else—

Q I am sorry, I didn't mean to cut you off.

A I am sorry.

Q Before the statute was enacted you counseled hundreds of pregnant minors, correct?

A Correct.

Q Personally?

A Personally.

Q And even though the counseling was nondirectional, largely nondirectional, did that information tend to be elicited in the course of the counseling, that is future plans?

A It often would be.

* * *

[158] Q Some don't come in that week, do they?

A Correct.

Q They come in the following week because an earlier appointment is not consistent with their schedule, correct?

A Correct.

Q And in the case of a first trimester abortion, an apparently healthy young woman, you don't try to urge them to rearrange their scheduling and come in that week, do you?

A No, not necessarily.

Q Is it ever the case that someone who calls on Monday and you are booked for Tuesday?

A Yes.

Q Is it ever the case that somebody calls on Monday and you are booked for the rest of the week?

A No.

Q What is your average backlog, if you can tell us?

A It is generally one or two days. However, if a person, a woman says that she must be seen on a particular day our policy is we will always see her.

Q Okay. What if a young woman doesn't express that type of necessity?

A Then we would negotiate a time that is good for her.

Q In terms of a backlog, I take it it ranges from time to time?

A It generally is about one or two days.

[159] Q It stays pretty constant at one or two days?

A Yes.

Q So a caller on a Monday can typically get in Wednesday or Thursday?

A Yes.

Q And a caller on Tuesday can generally get in Thursday or Friday?

A Yes.

* * *

[162] * * *

Q Okay. In that initial inquiry I take it you identify or you learn from the substance of the conversation that some of your patients are not going to be going to court, that they have no problem involving their parents, correct?

A Correct.

Q And they are apparently healthy teenagers, correct?

A Correct.

Q And they have had their pregnancy and they are still within the first trimester?

A Correct.

Q With respect to that group, do you urge them, do you advise them about any particular risk of morbidity or mortality in terms of how soon to get their abortion?

A If they are well into the first trimester, they are not close to 12 weeks—

Q I meant to say well within, if you can't generalize, let [163] me say 9 weeks.

A No, we would not.

Q So if an apparently healthy teenager calls up and tells you she is 9 weeks pregnant according to what her family doctor told her you don't urge her to come in immediately for reasons of medical risk, do you?

A No.

Q And if you have—if you get a call from someone who identifies herself as an apparently healthy teenager who is 10 weeks pregnant according to what her family doctor told her you don't urge her to come in immediately to avoid any medical risks of delay, do you?

A Not immediately, but we won't let her wait past 12 weeks.

Q Between 10 and 12 weeks you really don't press her to come in, do you?

A We don't.

* * * * *

[171] * * *

Q But in the literature you routinely distribute to your minor patients, you do warn them or give them information about possible psychological consequences, do you not?

A About feeling depressed after the abortion, possibly, and hormonal change.

Q You urge them to seek help if they feel the need, don't you?

[172] A Correct.

Q And I take it you give that information and those warning to your patients because those phenomena occur from time to time, correct?

A They do.

Q And they are not trivial phenomenon, correct?

A For some people they are not.

* * * * *

[175] * * *

A We see about a third of our patients back again for a post-abortion checkup but we have no way of knowing where else they might go for that.

Q Okay. So two-thirds of your minor patients you have no way of knowing whether or not they have heeded your advice to seek aftercare?

A Whereas with our adult patients, correct.

* * * * *

[180] * * *

Q Have you, based upon your experience, been able to form an opinion quantitatively as to what sort of delay on average the judicial bypass procedure involves?

A Not exactly.

Q Approximately?

A Well, it depends on when she first calls and we don't keep a record of all those calls, but generally it takes her about three to four days to a week to make all of her arrangements and get it all done.

When she first calls us and starts talking it until when she decides on what she is going to do to satisfy the law.

Q But not all of that, that period of time, is attributable to the statute, is it?

A Sometimes it is.

Q Well, isn't it most common that if somebody calls on a Monday the abortion, even if she is not going to go through court, isn't it the more common situation if somebody calls Monday the abortion will not be until Wednesday or Thursday anyway?

A That is true.

* * * * *

[185] * * *

Q But if they—but if they report—they can't report it then and avoid court?

A And still get an abortion—they could report it to me and I would report to Child Protection and then the investigation would start and then if Child Protection found reason to believe that this was a legitimate concern or accusation then in that case they would not go to court or notify their parents.

Q So in other words, Meadowbrook will make such a victim go to court until and unless there has been some determination made by Child Protection?

A Correct.

* * * * *

[188] * * *

Q Okay. It is your understanding that proceedings under the statute have to be of a confidential nature?

A Correct.

Q To protect the privacy interests of the young woman involved?

A Correct.

Q And there have been literally thousands of such proceedings in the Twin Cities, haven't there?

A Correct.

Q There hasn't been a problem with confidentiality, has there?

A None that has been reported to me.

Q You are aware, are you not, of four instances where a [189] petition—where a petition has not been granted?

A Yes.

Q Okay. And one of those instances was a situation where your patient reported in the course of going through the court process, whether to the public defender or the guardian or the judge, that she really didn't want to have an abortion but her mom was forcing her into it?

A Correct.

Q That was a 14-year-old girl?

A Correct.

Q Was that, do you think that was inappropriate for the court to fail to grant permission in that circumstance?

A As far as I understood it the court is determining whether or not she is mature enough to make the decision to have the abortion without telling one or both parents. I don't think that that necessarily has anything to do with her decision whether or not to go ahead with the abortion.

Q Do you think that a 14-year-old girl who says that she wants permission to have an abortion on the one hand, but really doesn't want the abortion but her mom is forcing her into it, do you think that raises any suspicion as to her maturity?

A No.

Q Okay. You are aware of other instances, are you not, where one of your patients—excuse me—one of your patients went to the Hennepin County Court system accompanied by her [190] boyfriend and at some point in the process expressed the view, "I don't want to have an abortion, I want to get married."?

A Correct.

Q And do you think it was unreasonable, inappropriate for the court not to grant the permission in those circumstances?

A Again I think the issue here is whether or not she is mature enough to have the abortion without telling one or both parties, not whether or not she has decided absolutely to have an abortion.

Q So you think the court should have granted permission to have an abortion in that situation?

A They are not granting permission to have an abortion, they are granting permission if she chooses to have an abortion she doesn't need to notify one or both parents.

Q And you think the court should have granted such permission in that circumstance?

A I think they should have signed the petition.

THE COURT: Your understanding of maturity, is mature enough so as not to tell their parents?

THE WITNESS: So they can give informed consent to have an abortion.

THE COURT: Mature enough for informed consent, okay.

* * * * *

Q I believe you also testified about your understanding of [191] a situation where a minor presented a petition to Judge Farrell and then froze up and couldn't express herself verbally?

A Correct.

Q And after some further counseling you were permitted to go back to court with her and explain her situation on her behalf?

A Not even after further counseling, after a whole lot of tears and anxiety I arranged to get this heard again.

Q Do you have an understanding, and I am sorry that your testimony was of some length, I am sure you said this, but it escapes my mind; did you have an understanding as to the grounds upon which Judge Farrell, the first time, denied the petition?

A Yes, I do understand that.

Q And what is your understanding of the grounds?

A That it would be difficult for him to know anything about a minor who would not speak to him.

Q Do you think that was a reasonable conclusion for him to draw?

A Yes.

Q Do you think the fact that a woman will not say anything raises at least some doubt as to whether or not she is mature?

A No. I think it talks about how afraid she is to be where she is.

Q Well, did the judge have a basis upon which to determine she was mature in light of the fact she wouldn't say anything?

[192] A I think he was nervous because she was 13 and wouldn't talk.

Q 13 and wouldn't say anything?

A Uh-huh.

Q Okay. Do you think that provides—that circumstance provided Judge Farrell sufficient basis to find she was mature?

A No, I don't.

Q Do you think that circumstance provided Judge Farrell with sufficient basis to determine that irrespective of her maturity abortion was in her best interests?

A Very possibly.

Q Could you tell us how someone can determine—someone can determine from a 13-year-old who wouldn't say anything

whether or not the abortion, without notice to her parents, is in her best interests?

A Because her boyfriend was there, he was her primary support person along with his parents and he was the one who was doing the talking and the explaining for his girlfriend so they definitely had a lot of information about her and about her family.

Q In any event, on that occasion, as soon as—how soon did Judge Farrell agree to rehear the situation?

A I think it was about a week.

Q Did that young woman get—thereafter get an abortion from Meadowbrook?

[193] A She did.

Q Without medical complication?

A Without.

Q Now you recall four instances, do you not, in which a young woman, pregnant minor patient of yours, went to Hennepin County Court and indicated that she wasn't sure whether or not she wanted to have the abortion?

A Right.

Q And that was one of your patients?

A Yes.

Q Personally counseled by you?

A I think so.

Q And her petition was denied or not granted?

A Correct.

Q Okay. In that circumstance, do you know the judge in that circumstance?

A No, I don't.

Q Whoever he was in that circumstance do you think the judge had sufficient basis to determine her maturity?

A I do.

Q Despite her statement that she didn't know whether or not she wanted to have an abortion?

A Well, maturity, having to do with her ability to give informed consent, if she made that decision.

* * - * *

TRIAL TESTIMONY EXCERPTS BY JUDGE ALLEN OLEISKY,
JUVENILE DIVISION JUDGE OF HENNEPIN COUNTY

[DIRECT AND REDIRECT BY MS. BENSHOOF]

[CROSS BY MR. GALUS]

[12] Q Approximately how many petitions have you heard since August 1981?

A Over 1000.

Q Would you say that you have heard more petitions than any other judge in the State of Minnesota?

A At least in Hennepin County and I think we do more than any of the other counties.

Q I am referring now to Plaintiffs' Exhibit 10.

A Yes.

Q Were these statistics prepared under your direction?

A Yes.

Q Now this only goes up to April 4, 1984, but it shows that you had in Hennepin County at that time heard 1237 cases.

Had you heard the majority of those?

A Yes. It shows I have heard 59 percent of them as of that point.

Q At the bottom of that form it states that 46 percent of the petitioners were Hennepin County residents and 54 percent were outside of Hennepin County. How come you heard—

THE COURT: I am sorry, counsel, I have lost you a little bit. What Page of 10 are you on?

MS. BENSHOOF: Page 1 of Petitioner's Exhibit 10 (sic) the bottom of the page.

THE COURT: Petitioner's residence, Hennepin—nonresident?

[13] MS. BENSHOOF: 54 percent.

How come you hear so many petitions from outside of Hennepin County?

THE WITNESS: That was a decision we made early on. We found out that most of the clinics were located in Hennepin County and secondly, being a district court we were a court of

statewide jurisdiction and we decided that we would hear these cases in Hennepin County, wherever. The juvenile code states a juvenile court has jurisdiction in one of two places, either where the child resides or where the child can be found and since the child was coming to Hennepin County to have the process we felt that we had statutory grounds to hear the cases.

Q Do you hear petitions from every county?

A Except Ramsey County. We made an informal agreement with Ramsey County that we would not hear children who resided in their county and vice versa.

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[14] * * *

BY MS. BENSHOOF:

Q Do you ever ask minors when they come before you why they didn't go to their home counties?

A Yes.

Q What do they say?

[15] A A number of reasons. They are afraid that people will know them in their small counties, that the clerk of court, the people attending there who work in the courthouse; some felt that they didn't know that they had to go to court until they actually arrived at the clinic and as a result they were down here in Minneapolis and then they would have to go back to their home county and it would be a real imposition because of taking time off from school and arranging rides; that whole issue of getting back and forth on school days, that was a real problem for them.

Also some had heard that they couldn't get a hearing in their local counties.

Q Do you think that these explanations given to you were valid?

A Yes.

Q How were the hearings on these petitions scheduled? Could you just explain the process in Hennepin County?

A Yes. What happens is that the clinic, as I understand it, will call our guardian ad litem's office or the guardian ad litem's office will call the clinic, they will tell them there are

hearings, there are children available. We normally have these hearings on Monday, Tuesday and Thursday. Early on we had them on different days but we usually arrived at a consensus to do it Monday, Tuesday and Thursday. The child then comes down to the Juvenile Justice Center, meets with the [16] public defender, is interviewed separately by the public defender and then is interviewed separately by the guardian ad litem. When that is completed they come to see me on an individual basis and I will have the hearing in my chambers with a court reporter present.

Q Who is present in your chambers when you hear the petitions?

A The child, the court reporter, the guardian ad litem, the attorney for the child, usually the public defender, and if a parent or guardian comes with the child we will allow them to sit. We usually don't allow the boyfriends to come in.

Q About how many of these petitions do you hear per day on the days you hear them?

A I think I average about between three to seven. Yesterday I had seven petitions, and I think on Monday I had two or three—no, today is Tuesday—yesterday I had seven so they average between three to five and anytime over that is exceptional.

Q Do you try to set a set number on each day?

A We have tried to maximize it at five or six because when we go over five or six we have problems with time of the public defender, guardian ad litem, et cetera.

Q What did you mean, problems with time?

A Time to interview the child and get it into court. We [17] try to have the hearings at 11:30 in the morning and try to have the child out of there by noon or a little after to accommodate, minimize court time and to minimize the time that the public defender has to come down.

* * * *

[18] * * *

Q So the minors who come for these hearings sit with the public, in other words?

A Yes.

Q Do you think this a problem for those minors?

A They tend to sit a little further away from the rest of the children who are coming in on delinquency-type cases, but it is being out in the public, obviously, and I don't know if it would—what effect it has on them or not.

Q When you go into the waiting room to get to your office do you know which minors are which?

A I can always recognize the children who are going to have an abortion, they look different than a lot of the kids coming into court on delinquency. A lot of them are with their boyfriends, holding hands, the boyfriends have their arms around them, they dress a little different than a lot of the kids who are coming into court on delinquency matters and for some reason, maybe the vast majority of people we have in court are boys, as opposed to girls, about 80 percent of the delinquency cases are boys, and all of a sudden when you walk out and see a group of girls sitting together in that particular area, to me they are easily recognizable.

[19] Q The girls all know why the other girls are there?

A The people in court certainly do and anybody who attends court on a regular basis, the probation officer, public defenders, county attorneys, social workers, police officers would know why the girls are there and who that group is.

Q You stated that the guardian and the public defender set up the hearings and then they tell you how many there are on particular days?

A Yes. One of my clerks will call about 10:00 o'clock to the guardian ad litem's office to find out the number of hearings we are going to have.

Q Do the number of minors show up for court that are scheduled, usually?

A No. In many cases they will say there is going to be seven or six or whatever the number and in many cases there would be two or three less.

Q Do you personally know why?

A In some cases I do.

Q Why?

A They got lost, they can't find us. I think they will make the appointment with the clinic and then never show up, it is too

long a drive, the weather may be inclement, just numerous reasons or maybe they will go forward and not have the abortion and get parental consent.

* * * *

[20] * * *

Q I notice that on Plaintiffs' Exhibit 13, which is the report of the guardian ad litem, this is a report given to you at the time of the hearing, is that correct?

A Yes.

Q Refer to the last page of this exhibit. There is a recommendation of the guardian ad litem. I would like to just go through this a little bit with you.

I see that under No. A there is a recommendation that you authorize the minor as emancipated.

What I would like you to explain is I thought the law provides an exception for not having to go to court if you are emancipated. So why is this recommendation in the guardian's form?

A I don't know. I think we just put it in there. I probably could think of only one child who has ever come to court that was married. And it may well be that the clinic will sometimes be very fastidious about bringing the child in. We found certain clinics are very careful and circumspect and any question, if there is any doubt, they will bring the case to court and I think that is the reason.

Q You mean circumspect about breaking the law?

[21] A Yes, and they are very careful that every i be dotted and every t crossed to ensure strict compliance.

Q It states here for B or C that the guardian makes a recommendation as to whether the minor appears mature and capable of giving informed consent or that the minor is not mature but the abortion is in her best interest.

Did you give any training or guidance to the guardian as to how or why they should make those two recommendations?

A We did discuss it numerous times with the supervisors from the guardian ad litem's office and something strike me in my mind that we even did some research on and some writings on this, and that we gathered some information about that, trying to qualify and quantify what we thought would be mature

and capable. But the statute was vague and really didn't give us any clear definition.

Q What did you tell them that they should use as a guidance for "what is mature"?

A I was concerned that the child was not being pressured by someone else to make the decision, that the child had weighed all the alternatives and options available to her; that she was able to make a decision not based upon other's feelings and based upon an independent viewpoint and giving some real thought to it rather than a spur of the moment thing, and her reasons were not just because it was going to ruin her figure or she was going to not be popular or give in to her boyfriend. [22] We were really concerned about the child and as a result if you go back on some of the questions we were real concerned about her post-high school plans, what her goals in life were, et cetera; and those were gauges we felt would measure maturity.

Q The sentence on that report says mature and capable of giving informed consent.

What is the difference between the two, in your opinion.

A I don't think there is any.

Q What standards have you related to the guardians about best interest and what that means?

A Well, one of the things that you quickly learn in juvenile court is that there are a lot of teenage mothers who are not capable of parenting their children, that they end-up in child protection and end up losing their children because of inability to parent. We call it, "Children having children," and we wanted the guardian ad litem to look at some of these girls and determine whether or not all things being considered if it was in their best interest to have a child, a baby; could a 13-year-old girl raise a child, could a 14-year-old girl who had mental or real emotional stability problems make a real informed consent about raising her child or giving it up for adoption. You know, formerly I always asked the children why. Have you ever thought of giving this child up for adoption, [23] there are millions of people in the United States that would love to have your baby and would give it a fine home, and they always tell me if I have this baby I could never give it up for adoption.

So those are some issues we were concerned with, particularly with the younger girls, the 13, 14, 15-year-old girls, that maturity level was a real concern of ours and the statute mandated that we look at it. So those are some of the guidelines we wanted to talk to some of our guardians about and have them talk to the child to inform them.

Q You talked about age when you mentioned 13 or 14. Do you know about what percent of your minors are 16 or 17 years old?

A I think it is in the material that is in the exhibit, but the vast-majority of children that appear before me are 16-17 years old.

They looked—if I could refer to Exhibit 10—

Q Right.

A 55 percent were 17, 34 percent were 16, 10 percent were 15 and I can't tell, is that 1 percent—1 percent were 14 and less than 3/10s of a percent were 13.

I don't ever recall a child younger than 13.

Q Right. So that the best interests is best interest to have an abortion versus going through childbirth; it is not best interest to notify the parent?

[24] A Yes.

THE COURT: I am not very good at math, judge, but isn't the 14-year-old 1/10 of 1 percent?

THE WITNESS: I am sorry, judge, that is right.

* * * * *

BY MS. BENSHOOF:

Q At the judicial hearing could you just describe who questions the minor?

A Normally what goes ahead is that the public defender will give a brief summary of the grounds why she believes the child is capable of giving an informed consent, is mature or is in the best interest and will ask the child some very brief questions.

I don't put the children under oath and I have been very careful trying to take off my—I don't wear my judicial robes at that point. I am usually wearing a suit jacket or in shirtsleeves.

I am sitting at a desk rather than in the courtroom itself so that she will ask the child some questions, verify her [25] signature on the petition and the guardian ad litem will usually give her opinion and why she has formed her conclusions and last I will ask the child some questions.

The questions I particularly am interested in is why they can't—the relationship between them and their parents, if anybody is pressuring them to do so, and if they would weigh the alternatives and if they are positive about it.

Sometimes I have asked them are you 95 percent or how much percent are you sure of this and then I will ask them again, reaffirm where the abortion is going to be held and when and then obviously if I approve it I will sign the order, give it to the court reporter who will then take it out to another clerk who will make a photocopy of the order and give it to the child.

Q You ask the teenagers why they can't tell their parents?

A Many times I do.

Q What responses do you get?

A Oh, numerous. Some—a number of them have told their parent, one of their parents. Others will say that they have been told if they ever get pregnant that they will be told to leave the house. Many will be told that there is a lot of strife and stress in their family situation and by telling them that they are pregnant it will just add and accumulate to it.

Others will tell us that there has been an older sister who had an abortion or a baby and it brought all kinds of [26] chaotic experiences. Others will tell us that physical and mental harassment by a father, in some cases some have told us they have been sexually molested by a member of the home or the stepfather or the father and that may be the reason that they are pregnant.

Others will tell us that it would create real problems in school, in the community, just a multitude of reasons.

Q Did you keep a list of all these reasons?

A We have—I don't recall if it is—I know we did have tabulated over the years a lot of the reasons and some will tell us also because—I think I may have mentioned this—because of some moral and family reasons that they have.

Q You have had 13 years' experience as a judge. When these minors are relating this to you do you believe them?

A Yes.

Q You stated that you hear these minors in your office with your robe off trying to make this, the setting, quite informal.

Why do you do that?

A I think you put the child at ease. I think it is intimidating to come into a courtroom and see a judge sitting on the bench and the court reporter in a very formal setting and we thought we would get a much better flow of information by bringing the child into the court chambers, making it as [27] comfortable as possible. I have a very spacious, commodious chambers. There is a sofa, there are—there is some arm chairs, there is books, a library-type atmosphere and windows outlooking and the courtroom is very similar to this courtroom that Judge Alsop is sitting in, it is a windowless courtroom that I sit in and we thought that opening it up would make it much more conducive to have a relaxed atmosphere and try to take some of the tension away from the girls.

Q You are trying to make things as good as possible?

A Yes.

Q You say you take some of the tension away from the girls. Do you feel they feel tension?

A I think they are under some stress coming in front of a strange man in a strange situation and in a courthouse in a strange city for many girls who don't come to court. We ran a computer on these girls in '82 or '83 and we found out that like 95 percent had no juvenile court record or had ever been in juvenile court before.

Most of them obviously had never been in a court before.

Q Do you think that experience of a minor going to juvenile court is a frightening one?

A Probably, no question about it.

Q What do you base that on?

A Well, I think any of us coming to court, we are [28] apprehensive and anxiety-ridden and are tense. Having to wait—many of the children arrive at our courthouse by 10:00 o'clock and they can't get to see me until 11:30, quarter to 12:00, even though we try to give them priority.

So there is some tension and anxiety. I know the lawyers are sitting there telling them don't worry, there is no problem, but I can tell questioning some of the girls in court they tense up a little bit, they are a little rigid. I try to make them at ease a bit and I know the public defender does too.

Q You stated you have heard over 1000 of these girls.

In about how many have you found the girls mature and capable of giving informed consent?

A Probably over 90 percent of them.

Q I thought I saw a statistic on one of these, that it was 95 percent, is that—

A I could—I don't quarrel with that.

Q Okay. Have you ever found a minor both immature and no best interest?

A I think maybe one or two cases we have turned down where I think I remember once where the minor came in and she wanted to have the baby and her mother told her to have the abortion and I think I denied on that basis.

Q That would not be a denial that she was not mature?

A No, in her best interest.

[29] THE COURT: I am not sure I understood. You say 90 percent or 94, if that is the figure, is that figure written on Exhibit 10 someplace, counsel?

You mentioned that it was 94 percent on the record and I am not sure where you are getting that.

MS. BENSHOOF: I don't think it is on the record. I think he is just remembering.

THE WITNESS: I think just my recollection, Your Honor, based on I think some statistics I have seen.

THE COURT: These are your cases or Hennepin County cases?

THE WITNESS: My cases. I would say 90 percent.

THE COURT: Where you found either mature or best interest?

THE WITNESS: No, mature itself.

THE COURT: All right. In 90 percent of the cases you have heard you have found it to be mature?

THE WITNESS: Yes.

THE COURT: All right. Now there are some of the additional 10 percent that you found best interest?

THE WITNESS: It is my recollection the other 10 percent would—I would probably go on best interest.

THE COURT: So there is no minor you have turned down as being immature and not best interest?

THE WITNESS: No.

THE COURT: So you are saying of your 1000 cases you [30] have never denied a petition?

THE WITNESS: I think I have denied one or two, sir, but I probably—I take back that earlier answer; I probably denied it on the grounds that she is not mature but I have stricken the mature but said the proposed abortion is not in her best interest because she wanted to have the child and she was being coerced by the parent. One girl I think told us that she wanted to have it, so deny it, so the boyfriend would marry her.

BY MS. BENSHOOF:

Q She wanted you to deny it so the boyfriend would marry her?

A Yes.

Q Did he marry her?

A No. I think later she came back and told the guardian he decided he didn't want to marry her.

Q Did she come through again?

A I think she came through again and got the abortion.

Q So then you found her mature when she didn't get married?

A Right. And I think the girl we denied against best interest was because she wanted to have the baby and the parent told her, the mother told her no, if she had the baby she would have to move out of the house.

Q In that case you were finding the girl mature because you were finding she should make the decision herself?

[31] A Yes.

THE COURT: You denied two petitions?

THE WITNESS: I think there was a third one, judge, I am not positive and I don't recall the circumstances but it can't go over two or three.

THE COURT: All right.

[BY MS. BENSHOOF:]

Q But these cases were not really denials because of a finding of no maturity?

A That is correct.

Q In your experience has the law—when I say your experience I mean in Hennepin County, not just your own cases, if you have personal knowledge of other ones in your experience, has the law resulted in any case where there has been a finding of immaturity and no best interest and the court has then ordered notification and the minor has gotten parental help?

A No.

Q And how many of the cases you have heard are the minors accompanied by a parent?

A I can't really quantify it but I probably—probably at least maybe 10 to 20 percent a parent will come into court. For instance, yesterday, if I might answer, I think of the seven I heard yesterday there were three parents present.

Q Three parents?

A Three of the seven there was a mother present.

[33] * * *

Q Do you speak to the one parent who may accompany the minor to the court?

A Yes.

Q Would you ask them questions?

A Yes, I do. I will ask, "Your daughter has applied to the court for an abortion. What is your position, do you have any feelings about it; do you think it is the right decision for her, do you approve; any comment that you would like to make," and they usually answer me.

Q What reasons do the parents give to you as to why they can't notify the absent biological parent?

A Sometimes they tell us that it may jeopardize the relationship, that there may be some repercussions as far as child support or custody; that the other biological parent may claim you are not doing your proper job in raising our daughter because she has gotten pregnant and is having premarital sex [34] and they are concerned that it will bring the other parent back into their life who has just been absent and they will say things have been going smoothly and by notifying him he is going to become intrusive in our life situation again.

Q Do you have any situations where one of the parties is a battered wife?

A Yes, and we have heard that where the parent will say I am afraid of assault from my husband or if he were to know about this. The child will tell us that too, obviously, in many cases.

Q Do you believe them?

A Yes.

Q You see such cases in your other life as a judge also, don't you?

A Continually, yes. And it is a fact of life that in our cases, 50 percent of my case load is hearing child abuse cases and 25 or 30 percent of my case load is physical abuse of parents and children by spouses and other parents toward the child.

Q So you think that battering is a frequent crime in Minnesota?

A No question it is a frequent occurrence.

Q A serious crime in Minnesota?

A It is a real serious issue because battered children end up battering; have low self-esteem and end up battering their [35] children when they grow up. It is a learned reaction and experience so it is a real concern to us.

Q So some of these batter situations you see the husband and wife are still living in the same house?

A Yes.

Q Since you have had so much experience with this in your opinion is the notification of such a thing as a pregnancy the kind of event that would provoke an incident?

A No question it is going to set the whole thing off again in some cases.

Q You say no question, could you just explain the basis of your opinion?

A Well, I think a lot of parents who abuse and batter their spouses and children are very controlling people and this is something that is coming outside of their experience and something that they don't have control about and they become very upset about it and it is something that is going to set them off.

It has got financial repercussions to them, obviously legal repercussions, the whole issue of control I think becomes a concern. A lot of these people rule by physical force or dominate their families.

Q When the parents come into chambers with you with their teenage daughters, do they express to you any feelings about the invasion of their privacy?

A Some parents are real upset like why do I have to be here [36] and I am giving consent; she has lived with me for 12 years, he hasn't. They are talking about the absent father.

In the vast majority of cases they are women who are coming with daughters and they will say the spouse hasn't had contact with the child for years, hasn't paid support, and why do we have to notify him. I am the one who has raised this child and I have given her consent.

Q What do you say to these parents?

A I tell them it is the law, I have no choice. There is a presumption that it is a valid law in our state and obviously I don't go into any challenges going on. I tell them that is the way it has to be and I try to set them at ease and try to assure them that we are going to make it as quickly and as painless as possible.

Q You testified as to the burden on the single parents or on these battered parents.

Have you made any communications to the legislature regarding this burden?

A Yes.

Q Could you describe that?

A In 1983 Representative Kathleen Vellanga, a legislator, I think from St. Paul, introduced a bill saying if one parent knows and consents that it was not necessary to have the court

hearing and Judge Peterson and I and Suzanne Smith agree to testify and we went over to the legislature and [37] Judge Peterson and I testified and presented some statistical information, et cetera, to a legislative committee.

Q What committee did you testify before?

A I want to say it was a subcommittee of the laws and family law committee or crime and family law.

Q What was the substance of your testimony?

A That in essence what I just said here, that 25 to 30 percent of the children appeared with one parent or one parent had known and consented; that it would be a burden on that single parent to have to come to court, or for the child, and I repeated some of the information that I stated earlier about bringing in unnecessary noncustodial parents back into their lives and I thought it just didn't really make much difference as long as the custodial parent consented.

That was my belief then and now.

Q Based on your observations of the minors, both before you and in your waiting room, do you have any opinions as to the emotional impact on the minor of having to go through the court process?

A I think it has some impact. They sandpaper them pretty well, very frankly, I think the child is well prepared by the clinic and the guardian ad litem and the defense attorney so by the time they get to me they are pretty well prepared.

CROSS EXAMINATION

BY MR. GALUS:_____

[40] * * *

Q A large number, and I don't have the number at hand, it is in the records, of the large number of children who have gone through the court process in your courtroom, are you aware of any instance in which your court and staff did not scrupulously abide by the confidentiality of these proceedings?

A No.

Q I believe counsel asked you in particular about a portion of the petition itself and asked whether the real name of the

petitioner is noted there or not. I understood you to say the real name is noted?

A Yes.

Q What arrangements, if any, after the hearing is conducted, do you make with respect to the confidentiality of the written record of those proceedings, including the petition which has the real name of the minor?

A We take the petition, the guardian ad litem's record and the court record and we file them back in a locked file room in Juvenile Court on the second floor; that is a locking vault and I don't even have access to it.

[42] * * * * *

Q On those occasions do you ever make exceptions to your normal hours of operation to accommodate the fact that they couldn't get there on time?

A Yes, I have heard them at 1:30, 2:00 o'clock—we are [43] available; in fact if they want to hear it on a weekend, when we first implemented that law we notified the clinics and the public defender and the guardian ad litem's office that they could call the Juvenile Center and they would give the number out and I would make myself available seven days a week and we never were called.

[48] * * *

Q You testified, I believe, that typically these hearings are held on Mondays, Tuesdays and Thursdays?

A Yes, sir.

Q Have you from time to time been asked to hear such proceedings on Wednesdays or Fridays?

A Yes.

Q What has been your experience when you have had those [49] requests?

A I will hear them.

Q In all cases?

A In all cases.

Q You mentioned, I believe, in your direct testimony that you can typically, by viewing the groups of young people in and about the Juvenile Justice Center, identify those who are there for parental notification proceedings, is that correct?

A Yes.

Q And you mentioned the sex of the group as being one clue, correct?

A Right.

Q Is it also the case that that group tends to appear more composed than the other persons at your courthouse?

A That may be one of the factors. I neglected to mention on direct also that that group tends to be not having parents with them. Many of the parties who appear in juvenile court have a parent or an adult with them and that particular group obviously rarely has a parent with them and so they tend to be readily identifiable.

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[52] * * *

Q Assuming that where some exigent circumstance where the welfare of the child required action during those periods of time, would you—do you stand ready to hold a hearing at that time?

A Yes. I have heard cases where there has been requests for me to approve blood transfusions for a parent who refused to allow the patient to have a blood transfusion and I have heard these cases on weekends and evenings, so I would certainly make myself available on these.

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[57] BY MS. BENSHOOF:

Q Judge Oleisky, do you believe that the statute dissuades some minors from having an abortion?

A Yes.

Q Why?

A Because I think that it takes kind of a forthright courageous youngster to travel two or three hundred miles, to come to a court in an alien city to get permission, and I think some-

times when they call up the clinics and they realize that they have to come to court that it may dissuade some of them from coming.

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TRIAL TESTIMONY EXCERPTS OF H. P., MINOR

[DIRECT BY MS. PINE]

[CROSS BY MR. ACKERBERG]

[28] * * *

Q Okay, H., how old are you?

A I am fifteen.

Q And have you ever been pregnant?

A Yes.

Q And did you have an abortion?

A Yes.

Q Did you go to court in order to avoid notifying your father?

A Yes.

Q How old were you at that time?

A Fourteen.

Q So it wasn't too long ago?

A It was July 25.

Q Now just to start, explain to the judge what was going on in your life, did you have a regular boyfriend at that time?

A Yes.

Q Do you remember whether you were using any contraception?

[29] A Yes and no. I mean, when we had it we used it, when we didn't we didn't.

Q Tell Judge Alsop the story of how you first suspected that you were pregnant?

A Well, I didn't really suspect that I was pregnant.

THE COURT: You did not, you say?

THE WITNESS: No.

It was about a month before I found out that I was pregnant. I thought I was pregnant and it was just a close call. Then, one day—it was in the summer now, and I had bronchitis and I had

the flu and I was really coughing really bad so my mom took me into the doctor and the doctor said that I needed an X-ray of my lungs.

So I walked into the X-ray room with the lady, whoever gives the X-ray, and on the wall was a poster saying if you are pregnant or maybe, please notify the doctor because it can harm the baby or something, you know, something like that and I just went, you know, it hit me right there. So then I told the nurse I might be pregnant and I am not sure and she said well, just a minute, I will talk to the doctor.

A little while later she came back and said why don't we give you a pregnancy test, but the doctor said to go ahead and give you the X-ray, you know, just uncover and cover my chest or stomach or abdomen or something. They did that and I went and gave a urine specimen and he came in, told my mom and [30] me—I told him not to tell my mom that I was getting the test because I didn't want her to know at that time and I just—he told me that I had bronchitis, prescribed a prescription and we were walking out of his office and my mom walked out first and he stood right at the door and he flashed a piece of paper to me saying, p-o-s-s, period. I will never forget that—

Q Meaning?

A Positive, I was pregnant, and at that time my boyfriend was there and he happened to be out in the waiting room and I don't remember what was the situation, and I told him and I did not tell my mom at that time.

THE COURT: When is this, in the summer months sometime?

THE WITNESS: Yeah, the summer months, I don't remember the date.

THE COURT: June, May or June?

THE WITNESS: Yeah, June most likely.

BY MS. PINE:

Q What was your first reaction, do you remember the first thing?

A Well, I went out and I told him, I said, I am pregnant, I just went, "I am pregnant," I mouthed it to him so my mom

wouldn't hear it and they got in the car and I just cried, I mean, not out loud, but I just, you know, cried, and I was just [31] really sad and my mom, she kind of noticed something was bothering me and she thought it was because she should have taken me to the doctor sooner to get checked for bronchitis because I was sick, so she didn't really realize it and I was just really—I didn't know what to do at that time, when it hit me there is no way out, I mean, it is either I have to have this kid or I have to get an abortion.

It was just like I would—I didn't know, you know, going through an abortion scared me to death because I didn't know anybody who had been through one and having a baby at my age didn't make any sense to me.

THE COURT: What is your birthdate?

THE WITNESS: 6/12/70, December 6.

BY MS. PINE:

Q Let's talk a little bit about you and your mom.

Can you tell me a little bit about your relationship with your mother? What your relationship with her is like?

A Well, right now we are really close. I talk to her about everything, everything you can imagine. She is just like my best friend.

Q Were you pretty close to her before?

A No, uh-uh.

Q Can you tell me—tell me about the reasons you think you are real close.

[32] A When I was 12 or so, I was younger than that, I was sexually abused by my mom's boyfriend and after it had gone on for every day, maybe two years, and maybe not every day, for a long time, I finally told my mom and she called the police and got him out of our house and stuff like that, and he went to court and got sentenced and everything like that and my mom protected me from him.

She stood by me. We had been through counseling together. We have talked about everything, we have cried together, we have been through—I mean, we have been through just so

much together, and that is what makes us, you know, get along so well.

Q So those are the reasons that made you feel like you could talk to her?

A Yeah. Yeah, because before that we weren't really close and in a way I kind of felt that I am fortunate because that happened to me because I am close to my mom now.

Q You talked to her about—

A I wish that would have never happened, but—

Q You talk to her about things like sex and menstruation and things that are—

A Yeah, yeah, yeah.

Q —personal?

A Yeah.

Q You said that when you first learned you were pregnant [33] you didn't want to tell your mom that you were on that very first day.

Tell me why you started to think about telling her and how that came about?

A I didn't really think about telling her at all. I didn't know what to do. I was so sick because I had bronchitis and all of a sudden I have this morning sickness and I would wake up and throw up every single morning, a couple of times I threw up on my dog, it was terrible, and I hate being sick.

I was really crabby, I thought, hey, if I let it go it will go away and it didn't go away. I kept getting sicker and sicker and one day I was talking to my mom on the phone and she was at work and I thought, hey, this may be the easy way out, you know, because, I mean, I didn't really know if I should tell her or not because I didn't know what she would think of me, you know, I didn't know if she would, you know, think, God, what a slut, you know, I didn't know.

So she was talking to me, she said, H., you haven't had your period in a long time, have you, and I said no, and she said, well, you are not pregnant, she said, when are you going to get it, and I said not for about nine months, and, you know, that was totally ridiculous the way it happened, I mean, I admit I took the easy way out, but I guess I couldn't face her. I could not face her to tell her that. I was really embarrassed.

[34] Q So when you first told her, what did she say, do you remember?

A She was not mad at all. She said, oh, H., oh, H., I am so sorry this happened to you. Why didn't you tell mom sooner, you know, just kind of motherly things, you know.

Q Do your mother and father live together?

A No, my mom and dad were divorced when I was four.

Q How often do you see your father?

A Depending on the year, he is an ex-alcoholic, whatever you want to call it, was an alcoholic when I lived with him, we lived with him. I remember him hitting my mom a couple of times and hitting us kids, not beating us, but when we would get spanked we would get spanked real hard and I guess that that just kind of left something in my head to always not be able to talk to my dad, not be able to feel like he was my parent.

Q Uh-huh.

A And we don't talk.

Q Now can you give the judge an idea of how often you see him now, over the different years, tell us what you can?

A Maybe two or three times a year. He lives in Waseca on the farm, which is not my lifestyle, so it kind of makes it hard to relate, you know, it has been a long time.

Q How does it usually come about when you see him; do you [35] call him, he call you?

A He will call us, I don't call him. He is not a very caring father, in my understanding, he doesn't ever ask about our grades, he just doesn't ask about things that parents would care about, like my mom. My mom is always concerned about our grades, how you doing, how is everything going in school, how has your life been.

Nothing like that. He doesn't even—it is just like he doesn't care to ask and when we would go up to his house maybe for a day or two he doesn't even pay any attention to us.

Q So when he calls to ask if he can see you or whatever, what do you usually feel or think about seeing him?

A I think I say, hi, dad, that would be great, whatever—I am putting on this big act and I tell my mom, "You have got to get us out of this," you know, just don't—make up something, mom, just, you know, but—

Q Has he ever been supportive to you when you have been in trouble or upset?

A He has never been there for me, no, never, and I expect that he probably never will. He just doesn't, you know, he is not around so he doesn't know.

Q And just to go back over something you were talking about a little before, you were saying he was an alcoholic?

A Yes.

[36] Q And can you just describe what little you might remember about his violence?

A He would—I was only four and I remember he would hit her, he wasn't around much, he would spank us for the dumbest things, we are kids, we would go put on our mom's shoes, we are girls, you know, get into that kind of stuff and instead of saying, hey, no, no, it was like come here, I am going to spank you.

Q Was he ever violent toward your mother?

A Yeah.

Q Do you remember any of that?

A Not really. I really don't.

Q Has he remarried?

A Two times, surprisingly enough.

Q Do you know anything about his relationship to his new wife, and wives and new kids?

A Well, the first one after my mom he had three stepchildren and a wife and I didn't—I saw him a lot at first and things started going wrong in their marriage because he was still an alcoholic and I didn't see him for a long time and I guess he put his ex-wife in the hospital, you know.

Q That is what you were told?

A That is what I was told.

Q Were you told that that happened more than once?

A I am not sure.

[37] Q Did you ever think about telling your father you were pregnant? Or about your abortion?

A No. My father doesn't—I don't even think about my dad. My dad is like someone that is not even there. I consider my parent my mom, you know, I think about him maybe a couple of times a year.

Q If you had told him what do you think he would have said or done, if for example, you had been required to tell him in order to get an abortion?

A You see, I have never been through anything like that, never said anything, you know, we have never gotten into anything. My guess would be he probably would want me out of his house, you know, I don't know.

Q What was the first thing that you think he might do to you?

A I doubt he would hit me. I doubt he would hit me because he knows that I am really close to mom and I would tell mom and mom would automatically take him to court or something, even though he is my dad, saying he shouldn't have touched me.

Q He doesn't have custody of you, right?

A Uh-uh.

Q Your mom has custody?

A Yeah, I suppose, yeah.

Q We will talk to her about that.

A Yeah.

[38] Q Do you think your pregnancy and abortion were things you would want to know about?

A No.

Q Do you think he should know about them?

A No, definitely not.

Q Do you think he would have been supportive or helpful to you at all if he had known?

A No, I don't think he would have cared less. I mean, not that he wouldn't have cared less, but maybe he would have cared but he doesn't know how to show it.

He has a real tough way of showing us that.

Q How would you have known if you had to tell him—I asked you before what you think he would have done—

A How I would have felt?

Q Yeah, what would you have felt if you went—

A I would have felt extremely embarrassed; I would have felt scared, I would have, you know, I can't even imagine it.

Q Uh-huh.

A I would just be totally—I would feel like I was being shamed by having to do something like that.

* * * *

BY MR. ACKERBERG:

[51] * * *

Q I thought you said before that you doubted he would hit you?

A He might have, you see, I really couldn't say that he would or I couldn't really say that he wouldn't, you know, but because I have seen him when he gets abusive then I guess I wouldn't want to chance that.

Q Does he call you occasionally?

A Yeah, maybe when he wants to see us.

Q You were hesitant to tell your mom at first of your pregnancy?

A Uh-huh.

Q Because you thought you didn't know what she would think of you?

A Uh-huh.

Q You thought maybe she would think you were a slut?

A Uh-huh.

Q But when you finally did tell her that was not her reaction, right?

A Right.

Q So you misperceived what her reaction would be?

A I guess I did that because that is the way I kind of felt [52] being 14 and getting pregnant, I guess I kind of felt like that after being sexually abused and all of that I guess I really did.

Q You felt like what?

A A slut.

Q You thought your mother would reject you?

A No, I did not think that. I didn't think that she would reject me.

Q You thought she would think of you as a slut?

A She may—I mean, she may have thought that in her own head. She wouldn't have said that, you know.

Q But actually she was very supportive?

A Oh, yeah.

Q And she helped you through this experience?

A Yeah.

* * * *

TRIAL TESTIMONY EXCERPTS OF D. P.,
MOTHER OF MINOR

[DIRECT BY MS. PINE]

[58] * * *

A I was afraid of him. He never wanted to do anything with the children, he never paid any attention to them.

Q Were those basically the reasons for the splitting up or were there other reasons?

A I think we just didn't communicate. We had grown apart—

Q Uh-huh.

A —from one another.

Q What was the separation process like, was it—

THE COURT: I am sorry, what was the what?

BY MS. PINE:

Q The separation process like, was it very angry, was it, between the two of you—

A Before the divorce, you mean?

Q Leading up to the divorce.

A Leading up to the divorce there were some angry times, yes, there were a lot of angry times. He wanted me to sell the house and I fought him on that and said, no, I am going to get a job and I am going to work and I am going to keep the house to raise the children in and that was our biggest battle, it was over the house.

Q Can you give one example of the kind of abuse that was symptomatic of him and his relationship to you and the children?

[59] A Oh, sure. He not only yelled and screamed at the kids, if we were in the car he would start driving very fast, just

drive, and it just frightened me to death. When he became violent he was violent.

Q Like what?

A Oh, he would abuse—to me, you mean?

Q Uh-huh.

A Oh, he would just hit me all over and throw me down or the same thing to the children.

Q What has your relationship with him been like since you split up?

A We talk on occasion, only if he has anything to do with the children, which is usually Christmastime, he does always make an effort to see the children at Christmastime. Other than that they may see him once or twice a year.

I really have no contact with him.

Q How often would you say you speak to him a year?

A Maybe twice.

Q What is the occasion?

A Christmastime, it is always at Christmastime.

Q Do you share anything about any personal matters with him?

A I will tell him about how the children are doing—he never initiates anything, he never does ask, except would the girls like to come down for a weekend, you know, something of that nature, otherwise, no, we don't get into a lot. Usually [60] I will tell him how the girls are doing.

Q Does he ask?

A No. No, he doesn't ask. In fact, I will always say, call the girls and say dad is on the line, why don't you say hello, and, you know, they go like—what do I talk about to this stranger?

Q Why is it that you don't share personal matters about your life with him?

A About my life; I don't think it is any of his business. He has remarried. What I do in my personal life is my business.

Q To what extent do you consult with him about decisions having to do with the children?

A I asked him if he would help me pay for H.'s braces because at the time I didn't have the insurance or dental insurance coverage, and he said no, that he would not.

Otherwise the contact is just, oh, how the children are going to get down to Owatonna, which is where he lives, and how long they are going to be there and when they are coming back.

Other than that we really don't have any communication. When he married, shortly after we were divorced, I did speak with that wife or his wife on occasion because she was always interested in the children and it was after their divorce that she told me what it was like for the girls when they went down to visit.

[64] * * *

Q There were other reasons you didn't want to tell your husband besides not thinking it was his business that you testified.

Can you just summarize those for us, what was it again you were afraid of?

A His violence. His last marriage ended where she ended up in the hospital a couple of times and he also did physically abuse their three children and that just—it just frightens me.

TRIAL TESTIMONY EXCERPTS OF KATHERINE WELSH,
EXECUTIVE DIRECTOR OF WOMEN'S HEALTH CENTER

[DIRECT BY MS. BENSHOOF]

[CROSS BY MR. GALUS]

[156] * * *

Q You stated that you have had one denial. Could you explain the circumstances of the denial?

A The denial was—it was our 100th case that we had taken in and the young woman was in foster care, her father was dead and her foster mother was there and apparently she was a Wisconsin resident and the social worker was also there. So it was the foster mother and the social worker and they did not want, nor did the young woman want to notify the mother. It was like they had had a very difficult time placing this kid and she had been through numerous things and he did not grant permission.

At that time we were going to appeal and the public defender who I think was Heather Sweetland on that particular case, we talked to the young woman and we talked to the social worker and to the foster mother and what we decided to do was that we would just send a letter of notification to the mother. To my knowledge the mother never reacted, you know, to that notification, and there was no harassment to the minor.

I think that is what they were worried about.

Q So you accompanied the minor to this court hearing, did you?

A I went.

[158] * * *

Q You described that you have minors come in at least an hour and a half before you meet the 11:30 or 1:30 schedule, is that correct?

A Yes.

Q Are there any particular days of the week that court is heard or is it any 11:30 or 1:30 scheduling?

A It is any day of the week.

Q And have you ever had the court heard minors outside of those two time periods?

A Yes, we have.

Q And how many times?

A Well, how many times, we had that at 5:00 after the courthouse had closed not long ago.

Q Why did you hear it after the courthouse closed?

A Because the father of the mother, the grandfather of the client was so well-known in the courthouse that there was just absolutely—the mother did not want to go to the courthouse during the working hours nor did the granddaughter, so the judge agreed to meet them after 5:00 o'clock when the courthouse was cleaned out so they wouldn't run into somebody.

Q Are there any other instances?

A Yes. Judge Sweeney not too long ago, we found out a mother was lying to us and what she was was a stepmother and the daughter was not really adopted and so we called up Judge Sweeney [159] because Judge Martin was gone and we told him

that we had this problem and we really felt that the only way we could comply with the law was to put her through the court bypass system because they did not want to notify the natural mother and so Judge Sweeney did hear them, you know, within a matter of, you know, an hour or so.

[171] * * *

Q When you get back from court are minors relieved at the decision? Do they expect that some of the petitions would be denied?

A Yes. And, you know, that is one of the things they always ask us, is he going to approve or is he going to deny and we always just say, you know, each one is individual and you know we can't answer that for you.

You see, they are always relieved that they have been granted and we never give them the percentage of how many have been granted because I just think that would be a real false hope for those young women and so we don't do that.

BY MR. GALUS:

[355] Other than the fact that you now go in greater depth with your patients as to why they have elected not to notify their parents, and other than information concerning the source of financial support, are there any other—is there any information that is called for by this report to the court that you did not—that you did not, or that you do not routinely obtain in the normal course as the provider of abortions?

A No.

[371] * * *

Q Okay. You had a hearing on a Friday after Thanksgiving one [372] year, didn't you?

A Yes, I did.

Q And the petition was granted?

A Yes.

TRIAL TESTIMONY EXCERPTS OF CYNTHIA DALY,
ASSISTANT RAMSEY COUNTY PUBLIC DEFENDER

[DIRECT BY MS. LYNN]

[CROSS BY MR. ACKERBERG]

[244] * * *

Q And approximately how many minors did you represent during that period of time?

A My guess is between 150 and 200.

[253] * * *

Q Did you always ask her questions about why she didn't want to notify her parents?

A Yes.

Q What sort of questions would you ask about that?

A I would ask her why she didn't and I told her that I was going to have to ask her in front of the judge why she didn't want her parents to know and I think it is really intrusive, but I thought it was necessary for the hearing.

Q Was there a requirement that minors had to have counseling in the clinics prior to coming to the hearing?

A Not initially. Later on we instituted that.

Q And approximately how long would an interview with a minor, prior to the hearing, take?

A Both I and the guardian would have to interview the kid prior to going to court and I would talk to them anywhere between ten and twenty minutes depending on how nervous they were and how long it took me to calm them down and get them to understand what was going on.

[254] * * *

Q So how were you able to recognize the minor that you were supposed to represent that day?

A The girls for these hearings stood out like a sore thumb from the various other people sitting there. They didn't look like the delinquents.

Q Can you—

A You can tell.

Q Can you describe how you could tell?

A They were generally, when I was doing them, almost [255] exclusively white middle-class, upper middle-class, always dressed nice and had their hair nice and they looked different from my delinquency clients.

Q And what would you talk to the minor about?

A The first thing I did was try to calm them down and explain to them what they had to go through, what the court proceeding was, who the people were involved; just try to calm them down and get them so they weren't quite so nervous.

Most of these kids had never been to court before and didn't have an understanding of what the court system was like or what a hearing was like or what the documents were, so I really tried to explain things to them, introduce—not introduce, but tell them about the personnel involved, try to tell them Judge Petersen was nice and rides a motorcycle and tried to humanize them so they weren't as scared of the judge.

[257] * * *

Q And at the bottom of that form I noticed that it must be petitioner, that is the minor's signature must be notarized, is that correct?

A That is correct.

Q Did you ever have problems getting that petition notarized?

A Some of the women in the clerk's office would not notarize them because of their opposition to abortion. Finally Judge Petersen's reporter got a notary stamp and then the problem was solved.

Q But there was a time when it might be it was difficult, there were times when it was difficult to find a notary who was willing to sign?

A Correct.

[260] * * *

A Just prior to Judge Petersen's first vacation, the first vacation after we started doing these hearings, I went and I talked to several of the district court judges kind of to sound them out as to whether or not they would be willing to hear these cases.

Some I didn't talk to because I felt fairly confident I knew the answer. Some were willing to do them and some wouldn't touch them with a 10-foot pole.

Q Would you say that you sometimes then had difficulty finding another judge when Judge Petersen wasn't available?

A It would take a lot more time. There was never an occasion where we could not find a judge but it would take a lot of time.

* * * * *

[262] * * *

Q How would describe the emotional state of those minors prior to the hearing?

A Scared. They were scared, most of them had never been in court before so they were facing a court proceeding, they were being talked to about some of the most intimate details [263] of their lives by a bunch of strangers, and they thought that whatever Judge Petersen did would affect the whole rest of their lives, which it may well have. I think they were very scared.

Q Those parents who accompanied the minors that you talked to, what were their reactions to the court process?

A I think some of them—typically they were mothers—but I think a lot of them were angry, either at the other parent who might not have been involved, that they had to go through this process.

I think they were angry, they were worried about their kid and they were nervous too. A lot of these parents had never been in court. You know, it is a mixed reaction, concern about the kid.

Q Can you describe the kind of minors you saw in terms of where they came from or their socioeconomic status?

A They were typically middle to upper-middle-class kids, most of them, the vast majority of them were in school, the vast majority had plans for the future. Typically they were white.

Q Could you make any general observations about their status in school or their grades or where they were employed, did they tend to be employed in any way or—

A They tended to be really neat kids, actively involved, fairly responsible in a lot of areas of their lives. They [264] were a real contrast from what I saw in delinquency court. It was refreshing to see neat kids. They were typically very bright kids. I don't know whether it was the dummies couldn't figure out how to get to court or whatever, but they were typically very bright kids.

* * * * *

[270] * * *

Q Given your experience representing minors in these parental notification hearings, do you think that the court bypass process benefitted the minors in any way?

A No. I think it was another hoop to jump through and a very damaging and stress-producing procedure that didn't do any good.

Q How did you view your role as a lawyer in these proceedings?

A I would hope that I was able to make it easier for the girls I represented.

I oftentimes felt like a peeping Tom—

THE COURT: I am sorry, felt like what?

THE WITNESS: A peeping Tom, looking into these real private issues that were, of necessity, raised.

I hope it made it easier for the girls.

* * * * *

[279] * * *

BY MR. ACKERBERG:

Q In your experience how has Judge Petersen interacted with the minors who appear before him in these proceedings?

A He has been kind, thoughtful, made every effort to put the kids at ease, but to carry out his role as he perceives it.

He is a fine judge and he made every effort to make that kid comfortable.

* * * * *

TRIAL TESTIMONY EXCERPTS OF DR. LENORE WALKER,
CLINICAL PSYCHOLOGIST

[DIRECT BY MS. BENSHOOF]

[CROSS BY MR. ACKERBERG]

[296] * * *

Q Dr. Walker, what is the definition in your field of the term violence?

A The term has a number of different definitions in terms of family violence. It would be defined as any kind of physical, psychological, or sexual abuse towards another member within the family.

Q And how would you describe the term battered woman?

A A battered woman would generally be somebody who is in a relationship with a man who commits that kind of violence. My definition is that it has to be physical, very serious psychological abuse that is life threatening, or sexual abuse within that relationship committed by a man to get her to do something that he wants her to do without any regard for her rights or her feelings about it.

Q Are you familiar with any studies about the prevalence of such violence in American families and in Minnesota in particular?

A Yes, I am. The prevalence in American families has been estimated by Murray Strauss, Richard Gillis and Susan Steinmetz in their epidemiological study at occurring in a little less than two million families in the United States.

In Minnesota, studying a report that was issued in 1985, I believe, it estimates that there are on the average 31,000 homes—31,000 women where violence takes place. These data,

as I understand it, appear in a particular report that is [297] based on the Minnesota mandatory reporting law.

Q When you said 31,000, you mean 31,000 acts a year?

A They averaged 31,000 incidents per year. So, there could be more than one act within an incident.

Q Do you know how such acts of violence relate to other violent crimes in Minnesota in terms of proportion?

A There is a statement in this particular report that suggests that domestic violence is perhaps the most frequent occurring crime in the State of Minnesota.

Q Are reports such as this regularly relied upon by experts in your field?

A Yes they are, both by mental health professionals and I believe that reports such as this one are also relied on by funding agencies so that they can allocate the distribution of state monies to help combat this problem.

Q Have you, in the course of your work, studied the proportion of homicides that occur between family members?

A Well, I certainly work a lot in the area of homicides. It is very difficult to get the exact numbers that occur within families. The FBI statistics estimate that perhaps as many as 25 to 30 percent of homicides, all homicides, occur between family members.

Q You stated that you did a comprehensive study interviewing 400 battered women. Do you know from that study or from other studies in your field, where there is a relationship with a [298] battered wife, how frequently there is also violence to children?

A In our study we found that the women reported in 55 percent of those cases the man who battered the woman also battered the children. When she was living in a violent situation she was likely to batter the children 25 percent of the time. For those women who were out of the relationship, that figure went all the way down. It was eight times higher for violence to occur when they were together in the relationship, against the child, from the woman's point of view.

The violence did not go down, according to the women, for the man to the child, whether they were living together or not.

Q You mean when the man was separated from the family his violence to the child stayed the same, but her violence to the child went down?

A That is correct. In my research, I may add also, my figures are compatible with other researchers in the field, that there is a very high relationship between all forms of family violence.

Q You mentioned in describing your expertise the term dysfunctional families. In your field do people describe families in different ways? Are their categories of families that psychologists in this area depend upon for their classification?

A Yes. In fact there are a number of studies, including one done by a researcher named Gerald Patterson and his colleagues [299] in Oregon where they have looked at dysfunctional families, abusive dysfunctional families and normal families, and what they have found is that there is a very different kind of communication pattern in each of those three families.

In the normal family they took a lot of observational periods in these families, they sent observers into the home and they quoted interactions. They found in a normal family the ratio of positive kind of interactions between the members is much higher than the negative interactions.

In a dysfunctional family that switches and there is a much greater rate of negative interactions than the positive kind of interactions between people.

In an abusive dysfunctional family there is still a higher level of negative interactions but there is also the—the pattern is different. There tends to be a blast of negative kinds of interactions and then a period of calm rather than the regular one, two, three, more even tempered interactions and then perhaps a—perhaps a blast of nice kind of loving interactions. That is very similar to the work my research has uncovered, that in battering families there is a three phase cycle with tension building and then an explosive incident which is equivalent to that blast of negative behaviors and then a period of no—either no tension or kind of living behavior.

Q And their definition and category of dysfunctional violent families, and that dysfunctional family, is accepted by others [300] in your field?

A Yes, it is.

Q Could you describe the relationship between the husband, wife, and children in a dysfunctional family?

A In a dysfunctional family communication patterns are interrupted in that family, it is probably more negative kinds of communication, but there is also a whole lot of—of just inability for people to understand one another; a lot of misperceptions go on.

In an abusive dysfunctional family the system becomes a very closed system. There is a lot of isolation, there is a great deal of fear that someone is going to find out the terrible secrets that go on in that home, and there is also a lack of—there is a greater sensitivity to each other, but a lack of communication with the outside world. Helpers are not seen as being important in that kind of an abusive dysfunctional family, and they are less likely to seek help.

Q In a violent dysfunctional family there is a difference in the way they communicate not only with each other but with the outside world?

A That is correct.

Q And you stated there is reluctance for family members, even those who are abused, to seek help or to communicate this to the outside world?

A That is true.

[305] * * *

Q Has your research developed a psychological portrait of the characteristics of a batterer?

A Yes. I have done clinical work with batterers. Although I have not done specific research with them, my research has been more what women say about the men, and there is a great deal of overlap between my clinical work and what the women say.

I also work with other researchers in the field who actually do study the men and we are finding great areas of agreement for them, for what we now know about men who abuse women.

Q And what is the psychological portrait of a batterer?

A Batterers tend to have low self-esteem, they tend not to [306] have any self-confidence within themselves. They are described as having more than one personality, often a Dr. Jekyll-Mr. Hyde. It is not a clinical kind of diagnosis like a multiple personality, but rather I see many sides of a batterer and it is because he has what we call emotional mobility, he can go from one mood to another with very rapid mood swings and you cannot often predict how soon his moods will change. In addition he is very jealous, often pathological jealousy. There is a great deal of sexual abuse we are discovering with batterers, also sexual insecurity, a high level of sexual—confusion between sexual intimacy and emotional intimacy.

There is also a lack of boundaries for batterers so that they believe their families are their property and that people within their families are not treated as individuals. In communication patterns within those families, and the communication of a batterer is almost impossible in a human way because he decrees that he has the right to make all decisions and isn't always interested in what other people think or feel or will do.

Batterers tend to be isolates at times, although they can be very charming at work. They range from all different socioeconomic classes and have all different kinds of educational levels as well. We have not found any patterns in that particular demographic grouping, but we have in their personality patterns.

Q Is there any—you described the characteristics towards the wife and children. Does this cease when the family, when the [307] husband and wife become divorced or separated?

A No, it does not. In fact that has been one of the most interesting areas in the ten or so years that I have been working in this field. There was a belief at first that if you helped couples to separate that that would end the violence. In fact we have learned that that does not happen, that the violence and the harrassments continue well beyond the divorce, especially when there are children involved.

Q And have you studied any homicides that have occurred during the period of separation or divorce?

A Yes. The most common time for a homicide to occur is at the point of separation. Batterers have a fear of abandonment and when they feel that they are losing their family they are most likely at that point to become homicidal or suicidal or actually both.

* * * * *

[308] * * *

Q Would you say that adolescence, as compared to other stages of childhood, is a particularly vulnerable point insofar as a battering home?

A It is really a very vulnerable point, one, because there is a great deal of sexual abuse and a lot of sexual jealousy for the batterer, so just the very being of at that time adolescent sex such as dating, a prom, they don't want their wives to go out and certainly not their children. They want to keep everybody inside that home and that causes a great deal of violence and conflict in those homes.

In addition, I find that in the violent homes adolescence increases the amount of physical abuse; that when you study families over the life span you find two specific times when violence is the highest. One is in pregnancy and the very early stages of a child's life, the first few months; and the second is at adolescence, two points, and we don't really understand all the causation, but if you plot that all out on charts that is what it shows.

Q Have you or others studied any correlation between pregnancy and violence?

[309] A I have studied some in my research program and we found about one third of our subjects were submitted to terrible violent battering incidents during pregnancy. Richard Gillis (ph) another researcher from Rhode Island also studied it and found a very high rate of violence that increased during the period of pregnancy.

Q You are talking in terms of pregnancy of the wife?

A That is correct.

Q What about pregnancy of the teenage daughter?

A There has been very little research that I have seen about pregnancy during—of an adolescent daughter. However, the theoretical implication would be that it would be very high were we to study it and that would be part of the high figures of child abuse and general high levels of violence that increases when children are adolescents.

Q What would you expect the effect of notice of a daughter's pregnancy to have on a batterer?

A I think it would absolutely enrage him. It would be much like showing a red cape to a bull. That kind of information just plays right into his worst fears and his most vulnerable spots.

The sexual jealousy, his dislike of his daughter going out with anybody else, would make him very angry and would probably create severe abuse as well as long term communication difficulties. In some cases the man may not react impulsively [310] and may hold on to that kind of information. But during the next fight it would certainly be used as a weapon and would continue to be used for years.

Q Have there been studies on the kind of information or the kind of incidents that do provoke this family violence?

A Well, most of the research shows it doesn't matter what kind of behavior goes on, that the violence comes from within the man himself; that his inability to control his anger whenever there is frustration or stress will cause a violent episode. It is inability to communicate effectively that causes the violence.

Q But pregnancy is a factor that has been correlated to provoke violence?

A That is correct. There is no—when scientists talk about correlation we don't talk about cause and effect. But the association of pregnancy has been found as one of the factors that causes an increase in violence.

Q Have you done any studies correlating the violence in a dysfunctional family and sexual abuse?

A Yes, I have. I have done most of my—most of my work has been clinical studies in that particular area and I found there is a much higher incidence of child sexual abuse and adolescent sexual abuse in battering families, particularly in those families where the man is known to also have sexual problems with his wife, where he is also sexually abusive towards her, that

he may have a much higher risk for children to be incested upon in those [311] particular families.

Q And you have personally studied families in which there is incest?

A Yes, I have.

Q And does the knowledge of this incest coming out provoke violence in the families?

A Yes, it does. In fact in twelve of the 91 homicides that I have worked on the exposure of incest has actually caused the violence to escalate to such a point that the woman killed the man. In one of those twelve cases, there was actually an incident where the daughter became pregnant and that is how the wife found about the incest and the emotional upheaval in that family pushed the man to come at the woman with a knife and her to take a gun to defend herself against him and shoot and kill him.

Q What was the name of this woman who killed her husband because she found about the incest?

A This particular woman who found out that the daughter was pregnant was Nellie Glenn (ph) and that was a trial that took place in Fort Wayne, Indiana, and she was found not guilty by justifiable homicide. It was a self-defense acquittal.

Q And you testified in that trial?

A Yes, I did.

Q And you examined this woman?

A Yes, I did.

[312] Q And you found that the knowledge of the incest pushed her over the brink?

A Yes, I did.

Q You found that the pregnancy knowledge pushed her over the brink?

A That is correct. That is how she found out about it.

Q Are you familiar with the Minnesota Statute 144.343?

A Yes, I am.

Q I would like to draw your attention to Subdivision 4, Subsection (c).

Dr. Walker, this section says that there is an exception to mandatory notice or court bypass if, "the pregnant minor

woman declares that she is a victim of sexual abuse, neglect, or physical abuse".

Q In your opinion is a minor who is pregnant and seeking abortion, and is a victim of sexual or physical abuse, likely to declare that she is when asked?

A In my professional opinion that would be a very unlikely occurrence, that it is very rare for children who are either physically or sexually abused to tell anybody about the abuse in any event. With the addition of pregnancy it would make it even less likely; there may be some who would, but it would be a very small percentage who would tell.

Q So minors who are given this option of exception would not likely be able to take advantage of it psychologically, is that [313] correct?

A I think it would be almost impossible for most of them to take advantage of it psychologically.

Q In your opinion is a minor who comes from a dysfunctional family likely to be psychologically able to choose and carry out the court bypass procedure?

A I think it would be exceptionally difficult.

* * * * *

Q In your opinion is a minor who comes from such a dysfunctional family likely to be psychologically able to choose and carry through the court bypass procedure?

A In my professional opinion it would be unlikely for a minor to be able to carry through such a procedure. The rules of those families are secrecy, and not to tell anyone. Going to court would be an exposure of a risk of—an exposure that would create a higher risk of any kind of abuse and it would be very difficult for a minor to do that.

* * * * *

[314] * * *

BY MS. BENSHOOF:

Q In such families—

THE COURT: Dysfunctional families?

MS. BENSHOOF: Yes.

BY MS. BENSHOOF:

Q —is a minor's judgement that she cannot notify one or both parents because of what would happen likely to be a correct perception?

A In my professional opinion, yes, it is likely to be an accurate perception. In abusive, dysfunctional families particularly a hyper-reluctance to discuss any potential violence develop and that sensitivity is a very acute and real sensitivity and I think her judgement, a minor child's judgment that this might—telling her parents might create a dangerous situation is very accurate.

THE COURT: Do you feel the same way about a functional family?

THE WITNESS: It is less sensitive in a functional family than it is—I think—yes, that minors tend to understand their parents in many situations, particularly in this situation, but their perceptions may be less accurate in function [315] families.

In dysfunctional families it can't be less accurate because that is what saves them from a lot of abuse growing up so they have a much more finely tuned understanding of how their parents will react in a situation.

THE COURT: In the dysfunctional?

THE WITNESS: In the dysfunctional.

THE COURT: In the functional family are you of a mind that the minor could accurately predict the reaction of the parents?

THE WITNESS: I think at times they can but they won't have the sensitivity that a child who grows up in a dysfunctional family would have.

THE COURT: They are not as likely to be correct in a functional family as they are in a dysfunctional family as you understand?

THE WITNESS: I can't say that they wouldn't be apt to be correct, because they might. I don't really know. I just know that the sensitivity in abusive families is much more sensitive and they are correct.

THE COURT: Sensitive to what the reaction is going to be?

THE WITNESS: That is right. That is correct.

BY MS. BENSHOOF:

Q In such dysfunctional families where a mother makes or [316] believes there will be violence if the father learns of the daughter's pregnancy, is her perception likely to be an accurate one?

A Yes, it is, again for the same reasons.

* * * * *

BY MS. BENSHOOF:

Q For those minors coming from dysfunctional families who cannot psychologically envoke the court option, what is the likely reaction in those families when they learn of her pregnancy?

THE COURT: All right, you may give your opinion.

THE WITNESS: In my professional opinion the most likely reaction is a greater dysfunction within this family. Communication patterns will be severed and there is a much higher risk of future violence.

BY MS. BENSHOOF:

Q Do you think that such involuntary notification could result in a positive effect on the family communication patterns?

A No, I do not. There is no evidence, either clinical or research data to suggest that that would happen.

[333] * * *

BY MR. ACKERBERG:

A The best epidemiological estimate is in Murray Strauss, Richard Gillis and Sue Steinmetz study that they conducted that was funded by the National Institute of Mental Health. They knocked on 2,000 doors in a random way according to research procedures, and they simply asked questions about—a lot of questions about the family and one set of questions was on whether or not there was a physically abusive incident; and they

found 28 percent of those homes. Then they, of course, extrapolated from that some kind of sample they can generalize to the American population. They only knocked on married families doors and so in single families where there was abuse, and some of that abuse is still continuing even though they are single, they did not include those data. They also didn't include the data for people who might be living together and not be married, or dating and being abused, and so they say that that 28 percent is a very low estimate of the number of physically abusive families.

They did not ask questions about sexual abuse within the marital relationship so that would add to it; or very severe psychological abuse. In my research we use the definition that Amnesty International uses for psychological torture.

When we talk about psychological abuse that is a low estimate and that is where the figures come from.

[334] MR. ACKERBERG: Thank you.

THE COURT: Do you conclude from that that 25 to 50 percent of the married women are suffering from Traumatic Stress Disorder?

THE WITNESS: No, you can't do that. First of all you can't do it unless you see them you can't diagnose them, that would be unethical procedure. They also say it is at least one abusive incident. For me you need—and you could use Post Traumatic Stress Disorder for that—for me I think you need to have at least two.

THE COURT: To diagnose the Post-Traumatic Stress Disorder?

THE WITNESS: And you also have to see the symptoms of it there. It is entirely possible there are people who are battered who we have not seen who don't have the symptoms of Post-Traumatic Stress Disorder and then you couldn't diagnose them.

MR. ACKERBERG: What proportion of the families are dysfunctional?

THE WITNESS: I don't know. I don't know, but we know the divorce rate is up to about 50 percent in this country, so it is pretty high.

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TRIAL TESTIMONY EXCERPTS OF JUDGE GERALD MARTIN,
FAMILY AND JUVENILE COURT JUDGE OF ST. LOUIS COUNTY

[DIRECT BY MS. LYNN]

[396] * * *

Q And do you know approximately how many you have presided over?

A Personally I have presided over almost exactly 225, it is either 225 or 226. The total number of cases in Duluth has been about 275.

Q So you are in fact the judge with the major responsibility [397] for implementing this statute?

A Yes.

* * * *

[399] * * *

Q Have you ever talked to somebody from the Clinic about scheduling an appointment yourself?

A Yes. I believe so. That is rare but I can remember one occasion where I was called by the Health Center staff about a girl driving from the Michigan Peninsula and in order to arrange that it would have to be in the middle of the afternoon as a matter of convenience. So she called me directly to see if that was all right. There may have been some other occasions, but I can't remember any other occasion.

Q What was your response to that?

A Yes, we arranged a time that would meet her needs.

Q All right. Under what circumstances will a minor's abortion petition case be referred to a judge other than yourself?

A If I was out of town or on vacation or just not available. Otherwise I would hear it.

Q Are you available for hearings Monday through Friday?

A That is correct.

Q How about weekends?

A No, not as a regular matter.

Q Has anyone ever requested you, or your court, through the court reporter, that a hearing be held on the weekend?

A No.

* * * *

[407] * * *

Q What is your understanding of the standards set out by Minnesota Statute 144.343 to be used in either granting or denying these petitions?

A We are to decide whether the petitioner is mature and capable of giving informed consent to an abortion. If we find that either of those do not apply, then we have to make a decision as to whether it is in the best interest of the petitioner to proceed with an abortion without first notifying her parents.

Q What is your understanding of the term parents in this statute?

A Well, the statute only refers to parents and I assume they are referring to natural parents, although I would interpret that to also include adoptive parents.

Q Would you include that to—would you interpret that to include a situation where a parent has had their parental rights terminated?

A I have not confronted that. I would interpret it as excluding parents who have had their rights terminated, but it is not clear.

Q What do you think the statute means when it says mature and capable of giving informed consent?

A Well, I don't really know. To be quite frank about it, I [408] think your guess would be as good as mine. I have read U.S. Supreme Court Decisions, this is back in '81, to see if they gave any guidance, and some of the Justices talked about strain within the family relationships as somehow applying to the issue of maturity or whether a petitioner should be permitted to go ahead without first notifying the parents. So, that is a factor I consider, although it is not logically related to maturity.

Beyond that I try to make a subjective judgment as to whether the petitioner is mature, is she articulate, is her reasoning adult like, reasonable. By definition anybody under the age of 18 is immature and yet obviously the legislature presumes that many people below the age of 18 are mature; but they don't know, there is no guidance within the statute to assist the court in determining what the means or how to make that kind of determination.

Q How do you think, or do you think that mature differs from capable of giving informed consent?

A I don't really know. I think that—I think it might be possible for an immature person to give informed consent so I am not sure that they are the same thing.

In the sense that informed consent means that you have gotten the information you need in order to consent—you could argue that maybe someone who does not have maturity cannot give reasonable consent, but the only term in the statute is informed consent, so, you know, I have never had to confront that directly, [409] but if I had to I am not sure what the answer would be.

Q What do you think the statute means when it refers to the pregnant woman's best interest?

A That part of the statute could be given either a narrow or broad interpretation. It can mean should she be able to go ahead without notifying her parents, period; or it might mean that the court should make a decision as to whether she should have an abortion or not, and if so, whether she has to notify her parents. It means one of those two things, either the narrow definition or the broad. Which one it is, I don't know.

* * * * *

Q And in the approximate 225 hearings that you testified you have presided over, in how many did you find the minor to be mature and capable of giving informed consent?

[410] A All but one.

Q And in that one in which you found the minor not to be mature—excuse me, strike that.

So in all of the cases that—where you granted the petition you did so on the grounds that the minor was mature, is that correct?

A That is right.

Q And in the only petition that you denied you found that she was not mature and I take it that it was also not in her best interest not to notify her parents, is that correct?

A Yeah. In the one I found that she was not mature and capable of giving informed consent. Then I found that it was

not in her best interest to proceed with an abortion without going through the notification process.

Q Can you describe the circumstances of that one case?

A Well, it was a 14 year old girl and a very immature 14. Her mother had been consulted, was at the hearing, and approved of her decision to go on with an abortion. The father had been out of contact with either the mother or the child for at least seven years. His whereabouts were unknown. The last known address was from about seven years before.

The statute requires that a reasonable effort be made to make contact with that parent in that case.

Q And why did you make a finding that her best interest—that it was not in her best interest not to notify her father?

[411] A Well, this was not against her best interests—wait a minute, you have got—

Q I am sorry—

A I know what you mean anyway.

Q You know what I mean?

A I saw no reason not to send a certified letter, return receipt requested, to the last known address seven years ago. There is no—there was really no doubt in my mind that they would never make contact with the person anyway. There were no reasons given as to why it would be detrimental if contact were made. He was not a threat, there was no past history of abuse or that sort of situation that you normally see in these cases.

Q So when you decided that petition, Judge Martin, you had no reasonable expectation that sending that letter to the last known address would result in actual notification of the father, is that correct?

A That is correct. There was no doubt in my mind that contact would actually—actual contact would not be made.

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[412] * * *

Q What kind of reasons do the minors give for not wanting to notify their parents?

A It is almost always a case of very unhealthy family situation. It is frequently a physically and emotionally abusive

father, usually; alcoholic parents, it might be a parent that physically abuses the petitioner, or would blab all over town [413] about the situation and we have a lot of small towns around that area. There is often—you see a case where one of the parents is extremely ill, heart condition, or in some sort of nervous situation, receiving treatment for a very nervous disorder, and it is felt that if that parent learned about the pregnancy it would be detrimental or even life-threatening for that person.

You often see a case where one of the parents has had very little contact with the child for years after a divorce, maybe they see that parent once a year for the last five years, and never discusses anything important with that parent and doesn't want to have to consult that parent about this.

Those are the most common cases.

Q Can you give any specific examples of these kinds of situations?

A Well, the ones that would stick out in your mind are the abusive situations and it is probably the most common type one. In one case about a week or two before the hearing the father had broken the petitioner's mother's wrist and had frequently physically abused both the mother and the petitioner. Another case that I can recall from the range, the father frequently beat the petitioner and she had no doubt in her mind that the same would occur if she notified the father about her pregnancy.

Other than that there is no individual cases that stand out, but that, I think, is a very common situation.

Q And when the petitioners tell you that they are afraid of [414] abuse from their parents, do you believe them?

A Oh, yes. For sixteen years I have seen a great deal of that and there is no reason for me not to believe that.

Q What have been your observations regarding the minor's reactions to being in court?

A Well, I think everybody, I assume, who has to be a witness in court, it is a nerve wracking experience and I think particularly for these juveniles it is a very anxious time; and particularly with the personal issues involved. I think they find it a very nerve wracking experience.

Q Well, based on those observations do you have any opinions as to the impact on the minor in having to go through this court proceeding?

A I am sure it is an ordeal for them.

Q What have you observed, anything about their reaction after you have signed the order?

A Oh, when the hearing is over they show a great deal of relief and they proceed out of the chambers with a great deal of speed and, you know, that is what I see.

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TRIAL TESTIMONY EXCERPTS OF CHAR BAKER, EXECUTIVE
DIRECTOR OF MIDWEST HEALTH CENTER

[DIRECT BY MS. LYNN]

[476] * * *

Q All right. What effect do the court requirements have on Midwest's scheduling of minor patients for abortions?

A It always includes a two-day appointment and in some extreme situations maybe even three days because we are [477] required to counsel the patient prior to going to court; also do a lab workup and examination, and then the court appointment has to be set and once court approval has been made then she comes back for the procedure.

Typically the young woman would have the counseling session take place one day and then be scheduled to go to court the day of the procedure. So then she would be going to court on another day and then coming back for the procedure.

Q Now you mentioned that sometimes it is a three-day process.

Can you explain when that would happen?

A That would happen if the court situation was such that the minor did not get back in time for the doctor. So then she would have to come back on a third day for the procedure.

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TRIAL TESTIMONY EXCERPTS OF MARIA HONKALA,
FORMER TEEN ADVOCATE AT MIDWEST HEALTH
CENTER FOR WOMEN

[DIRECT BY MS. LYNN]

[CROSS BY MR. GALUS]

[526] * * *

Q Did you ever have any minors that you accompanied to court run into anybody that they know?

A Yes, several times the women would know one of the employees at the court, whether it be the judge or the public defender or the guardians. That was a problem and also, just running into or worrying that the parents worked in downtown, worked in the government center.

I also had one woman, I also had a woman that her school was on a field trip while she was at court and saw her and asked her what she was doing there.

* * * * *

BY MR. GALUS:

[538] Q You mentioned in your direct testimony certain problems you have observed with confidentiality of those of your patients going through the court process in Hennepin County, didn't you?

A Yes.

Q Okay. And I believe you mentioned on one occasion or on more than one occasion, perhaps it was your testimony, that one of your patients, court minors, knew some court personnel?

A Yes.

Q How many times did that occur?

A Just the court personnel or including—

Q Let's take the court personnel.

Let me ask you that first.

A I would say at least 10.

Q Okay, who—could you identify the court personnel who the minor was acquainted with?

A Judge Oleisky, George Widseth, one of the public defenders, a couple of the guardians.

Q Were the majority involving Judge Oleisky?

A No, I would say the public defenders.

Q The majority involved Mr. Widseth?

A And also David Knutson.

Q These were situations where the court minor was acquainted with Mr. Widseth or Mr. Knutson?

A Yes.

[539] Q Do you know what the nature of the previous acquaintance was in connection with Mr. Knutson and Mr. Widseth?

A Neighbors.

Q How about the occasion—when Judge Oleisky had been previously acquainted with the court minor, do you recall that was once or more than once, that occurred, to your knowledge?

A I believe it was twice.

Q And on those two occasions do you recall what the nature of his prior acquaintanceship had been between the judge and those two minors?

A Judge Oleisky friends' daughter was one of them and I believe the other one was a woman just knowing the judge from seeing the judge before for something else.

Q That child had appeared before Judge Oleisky's juvenile court previously?

A Right.

Q And on how many occasions, to your knowledge, have court minors become involved with guardian ad litem with whom they were previously acquainted?

A I would guess about three times.

Q Okay, that is your best estimate, three times?

A Yes.

Q Do you recall the names of the guardians involved?

A No.

[540] Q And do you recall the nature of the prior acquaintanceship?

A Neighbors.

Q On any of the occasions where the minor had a prior acquaintance or acquaintanceship with public defender Knut-

son, do you have any reason to believe that Mr. Knutson violated confidentiality of that proceeding by communicating anything about it to any third party?

A No.

Q On the occasion when one of your—one of the court minors had a prior relationship with public defender Widseth, do you have any reason to believe that Mr. Widseth violated the confidentiality of that proceeding by communicating it in any respect to any third party?

A No. I would do a couple of things: If the women showed up at court and knew them, I would let them know ahead of time that she was concerned about knowing them and also if the minor expressed to me that she knew, say, Judge Oleisky or knew somebody that worked there, I would call ahead of time and make sure that that person, you know, tried to make sure that that person is not seen by that person that she was—

Q I think I may have misunderstood you on the two occasions where the young woman had been acquainted with Judge Oleisky, did you call ahead?

A On those two women I am talking about they—no, they found [541]—I found out when we were at court.

Q Okay. So there was no forewarning of the acquaintance?

A Right.

Q And on the occasion involving Mr. Widseth did you know in advance that the young woman was acquainted with Mr. Widseth?

A No.

Q And on the occasion with Mr. Knutson?

A No.

Q So the approximately 10 occasions that you described were occasions where they actually confronted each other?

A Right.

Q Now you are telling me on other occasions you may know in advance that the minor may be acquainted with a public defender or a guardian?

A Right.

Q How would you know that?

A By her asking me, you know, is Judge Oleisky the judge that would be seeing me.

Q Okay. And on those occasions you have indicated yes or probably yes?

A I have called to find out.

Q Okay. And you have inquired of the minor whether she had any objection to proceeding before Oleisky?

A Right.

Q And on occasion there has—had there been an objection?

[542] A Yes.

Q Or—

A We have scheduled her to come in when Judge Oleisky would not be there.

Q Okay. Other than the minor forewarning you about preferring not to appear before Judge Oleisky has any other minor forewarned you about preferring not to be represented by a particular public defender or be involved with a particular guardian?

A Just not somebody specific, but just saying that they know certain lawyers or whatever that worked at the government center and I don't know whether or not, you know, they worked there or whatever.

Q Okay. You mentioned a field trip, the occasion of a field trip where one of your patients was awaiting court when a field trip from her school came by.

Did I understand you correctly?

A Yes.

Q And she was seen by one or more of her classmates?

A Yes.

Q And it happened more than once?

A No.

Q Other than the field trip and the occasion you have mentioned one of your patients was acquainted with a public defender or a judge or a guardian ad litem, have there been [543] other problems with confidentiality that you are aware of?

A Other than when the woman is sitting in the lobby and there are other women that are there for the same reason that know each other, feeling uncomfortable and that other woman that is there for the same reason goes to her school.

Q You have clarified for me before on certain occasions you were able to be forewarned about a possible acquaintanceship and would call ahead.

I think I was in the course of asking you whether or not on any of those occasions when the young woman was acquainted with a public defender, do you have any knowledge whether that public defender breached any confidentiality in the sense of communicating the proceedings or any aspect of those proceedings to any third party?

A No.

Q On the occasion when the young woman was acquainted with the guardian ad litem, do you have any knowledge that those, any of those guardian ad litem breached the confidentiality of the proceedings by communicating the proceedings to any third party?

A No, other than a few times, I would say three times that I was there while the women were sitting in the lobby, one of the—this is with the receptionist—one of the employees would walk in and ask why the women are sitting there and the employees would, like, let that employee know why the women are [544] there.

Q That is the Hennepin County Public Defender's Office you are talking about, correct?

A Yes.

Q With respect to the guardian ad litem, with whom some of your patients have been acquainted, there has been no breach of confidentiality coming from those guardians, to your knowledge, has there?

A No.

Q Okay. You don't have any involvement with the Hennepin County Public Defender's Office anymore, do you?

A No.

Q At least in terms of—

A Right, the location.

Q —where the young women wait?

On any of the occasions involving a compromise of confidentiality in terms of the court personnel being acquainted with the young woman or someone in Hennepin County the public defenders' reception area inquiring why the young women were

there or on the other occasion of the field trip, in any of those instances to your knowledge have the parents been made aware of the proceedings?

A No.

* * * * *

[547] * * *

Q Okay. And do you know, based upon your observations, what fraction of your patients do in fact come back for two-week checkups?

A I would just say most.

Q More than half?

A Yes.

Q And for the others you have no idea or no personal knowledge as to whether or not they have in fact received a checkup, correct?

A Yes.

* * * * *

[556] * * *

Q Okay. Did you ever—I take it from your testimony that you have been successful on a number of occasions in getting scheduling accommodations from Judge Oleisky, correct?

A Yes.

Q And also from Judge Albrecht?

A Yes.

Q Okay. In a particular circumstance it was exceeding the five or six limit per day?

A Yes.

Q Did you ever ask Judge Oleisky if he would hear these matters at 4:00 o'clock p.m.?

A Yes. He has a couple of times seen women privately.

Q After 4:00 o'clock p.m.?

A I am not sure if it was after 4:00 o'clock p.m. or not.

Q Have you ever asked Judge Oleisky to hold court for these purposes after 4:00 o'clock p.m.?

A No.

[560] * * *

Q Okay. And at one point someone on behalf of the court system indicated that the court was willing to treat anything of a gestational age of 12 weeks or greater as an emergency [561] for scheduling purposes?

A Right, and then they switched it to be 11 weeks because I was asking them—I was trying to figure out who was an emergency patient to them.

Q For purposes of the court deviating from its normal scheduling practices, right, as far as hearings?

A Right.

Q Okay. And they at first said we will treat anything over 12 weeks as an emergency for these purposes?

A Right.

Q And you urged them to make 11 weeks the emergency definition?

A Right.

Q Correct. And they agreed?

A Yes.

* * * * *

[564] * * *

Q Do you ever talk to Susan Smith about getting an earlier date in order to avoid a second trimester procedure?

A I have talked to her a couple of times.

Q Well, how has she responded to requests in those couple of situations?

A She made the appointments.

Q She has accommodated you or accommodated your patients?

A Well, for the last time she didn't return my phone call.

Q When was that?

A I can't find the date. I would say about six months ago.

Q But on a couple of occasions you have actually spoken with her concerning the needs for an earlier appointment to avoid a second trimester situation, correct?

A Right, uh-huh.

Q And on all of those occasions she accommodated you?

A Yes.

[568] * * *

Q Other of your out of town patients have been late to some extent, to a lesser extent?

A Yes.

Q And have you asked the court to fit them in a little bit later?

A Yes.

Q And has the court accommodated that?

A Yes.

* * * * *

[581] * * *

THE COURT: But the average case you would handle by yourself?

THE WITNESS: Right.

THE COURT: What was your age at that time?

THE WITNESS: I believe 17.

THE COURT: What was your formal education at that time?

THE WITNESS: Just the experience of it would have been—I was still in school and—

THE COURT: What was your highest grade achieved?

THE WITNESS: At that time?

THE COURT: At that time.

THE WITNESS: I was still in high school.

THE COURT: What year in high school were you?

THE WITNESS: I was a senior.

THE COURT: You were a senior in high school, 17 years old?

THE WITNESS: Right.

THE COURT: And you were the person who was counseling and advocating for the teenage patient at the Midwest Health Center?

THE WITNESS: Right.

* * * * *

TRIAL TESTIMONY EXCERPTS OF THOMAS WEBBER,
EXECUTIVE DIRECTOR OF PLANNED PARENTHOOD
OF MINNESOTA

[DIRECT BY MR. PENTELOVITCH]

[618] * * *

BY MR. PENTELOVITCH:

Q Mr. Webber, who testified on behalf of or what organizations had representatives testify on behalf of these bills in the house and Senate, House or Senate?

MR. GALUS: Objection, irrelevant.

[619] THE COURT: Objection sustained.

MR. PENTELOVITCH: Offer of proof?

Would you answer that?

THE WITNESS: The organizations before the Senate included Minnesota Citizens Concerned For Life. Before the Senate and the House organization it tended to be quite similar and Minnesota Citizens Concerned For Life, the Minnesota Catholic Conference and Health Care facilities, the St. Paul—Minneapolis-St. Paul Archdiocesan Council of Catholic Women, the Human Life Alliance, Citizens for Community Action, Minnesota—I can explain who these groups were if they mean anything to you, Citizens for Community Action is a group that opposes Planned Parenthood's provision of abortion care.

Minnesota Citizens Concerned For Life is the largest antiabortion organization in the state.

The Human Life Alliance is much smaller but somewhat more strident antiabortion organization. All of them testified. In addition to them a group, Minnesota Legal Forum, which at that time, 1981 was Minnesota's local affiliate of Phyllis Shafley's group organized to oppose—

THE COURT: ERA? Minnesota Equal Rights?

THE WITNESS: The Minnesota Eagle, the bird, forum, the Minnesota Eagle Forum; CALM, the acronym stands for Citizen Alert for Liberty and Morality; a group organized by the pastor of the Fundamental Church in St.

Paul, initially [620] to oppose antidiscrimination efforts against gays in public housing in the City of St. Paul—

THE COURT: Citizens Alert for what?

THE WITNESS: Liberty and Morality, CALM, it is a group that effectively repealed the St. Paul ordinance which prohibited discrimination by reason of moral preference in St. Paul.

THE COURT: Whatever happened to that gentleman, is he still—I forgot his name; is he still in St. Paul? I haven't read of him lately.

THE WITNESS: I haven't either.

THE COURT: What is his name again?

THE WITNESS: Richard Angwin; he is a pastor, he did leave his pastorship about a year and a half ago, Your Honor.

Those are the organizations. There were also some individuals, relatively few in number, who gave information in support of the bills. Those are the organizations that presented testimony either before the Senate Health, Welfare, Corrections Committee or the House Social Services Subcommittee on those dates that am giving you.

BY MR. PENTELOVITCH:

Q Now with respect to those groups—I am still on my offer of proof, by the way—with respect to those groups, did any of the spokesmen testifying for those groups, or any of the [621] individuals you heard testify in favor of the bill, present any empirical evidence in the way of studies or statistics or offer any opinion testimony based upon studies or the like to the effect that a bill of this nature would in fact enhance and improve family communication?

A None whatsoever.

Q Or family love?

A None whatsoever.

Q Would you—I am still in the offer of proof—would you please tell us who testified against the bill in either the House, Senate or both?

A The organizations testifying against both of the bills included the Minnesota Medical Association, the Minnesota Public Health Association, the Minnesota Nurses Association, Planned Parenthood of Minnesota, the Division of Adolescent Medicine at the University of Minnesota, the St. Louis County Health Department, the American Association of University Women, which introduced a very understanding study into testimony; the Lutheran Social Services—the list went on, it was quite a lengthy list of all of those organizations who did in fact testify along with some individuals.

The opponents of the bill, not all of them would sign the testimony register those evenings weren't permitted to testify because of time restraints. There was a rather substantial list beyond that.

[623] * * *

The Lutheran Social Services testified—it was a long-tenured social worker who represented them that evening—that on the basis of their clinical work with families in trauma that unfortunately the parents of minors that were involved in counseling sessions with LSS often became more concerned with parental reactions, parental desires, than they were concerned with needs and problems of youth, their own youth, their own adolescence, and it was their professional judgment and conclusion based on clinical practice that the law was doomed to failure if in fact the law's intent was to enhance harmony, love, communication and support within the family structure.

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TRIAL TESTIMONY EXCERPT OF M. J., MINOR

[DIRECT BY MS. PINE]

[631] * * *

THE COURT: Were your folks separated?

THE WITNESS: No, they were living together. We were very close.

BY MS. PINE:

Q You and your father?

A Yes.

Q What was your relationship with your mother like before your father's death?

A Very distant. We found it very hard to communicate with each other, did so very, very rarely.

As far as close things, as far as deep feelings and things that are important to me were not really said between us. It was basically general conversation, the weather, the food, how it was that night, things that we were going to do that weekend, go to the football game or whatever.

Q Do you remember how you felt when your dad died?

A I was very shocked, it was a sudden thing. I had just lost my best friend which is very painful. I felt very alone and I looked around me and I had my brothers and sisters who were all living out at the house at that time and my mom who was a complete stranger to me.

[632] Q Do you remember how your mom reacted when your father died?

A She was also very deeply hurt as was the whole family but she managed to live through it like all of us did.

Q How did your relationship with your mother change after your father's death, or did it change?

A Oh, it changed drastically in the sense that here is a mother and a daughter living with their father and then one day dad dies and mother and daughter look at themselves and at each other and say who are you, I lived with you for 12 years and now under the circumstances we are forced to get to know each other and to get through this burden together of dad's death; and try to be supportive to each other, try to be there for each other.

Q And it was like starting from scratch?

A Yeah, it really was. I didn't know her at all. We were not very close at all because of her drinking.

Q Why don't you tell the judge a little bit about what your mother was like?

A Okay, my mother was an alcoholic at the time. She had been to treatment prior to my dad's death and was doing very well.

Q What happened when your father died?

A Then she did hit the bottle, not as much, but did go back to drinking because she just couldn't handle it.

[633] Q Was she ever hospitalized for the drinking problem?

A Yeah, she went to Abbott-Northwestern Hospital, I committed her myself and my brothers and sisters.

Q Was that after your father died?

A Yes.

Q Why did you commit her at that time?

A Because I could not handle living in that situation, for the sake of my protection, also hers. I could see her health deteriorating, I could see her attitudes changing. I could see our communication shutting off because of her drinking.

Q Could you give some examples of things that would happen when your mom would drink?

A Yes, she would take on major tasks, she would want to clean the house, do things that would require good judgment and good movement like vacuuming and such and there have been times, one incident in particular, where I came home early one evening and found that she had taken the window panes out of the window and was washing them and had set them up against her bed and stumbled forward into the glass cutting her hands and wrists and her feet and I had to have my brother come and get her and take her to emergency; and generally things like burning the furniture and things like that have happened too.

Q Were there other times that you can remember taking care [634] of her, sort of picking up the pieces?

A Yes, all the time I was like her babysitter. Many nights I stayed home instead of going out for fear that she would hurt herself because she was already so drunk by the time I was supposed to leave the house I couldn't leave her alone because I knew she would hurt herself or was scared that she would.

Q Up until the time of your pregnancy did you ever talk to your mother about personal matters after your dad died or before?

A No. No, like I said, we did not have a really close relationship. We couldn't—she couldn't tell me things that really upset her and really concerned her and I couldn't either.

Q Were things better at all at the time of your pregnancy?

A No. No, they were pretty distant.

Q Did you ever consider telling your mother about your pregnancy and abortion?

A Briefly I considered it but—

Q And you decided—

A I decided not to.

Q Why did you decide not to? What did you think would happen? What were you afraid of?

A I was afraid that if I told her she would start drinking, getting back to her habits before when my dad died and get back into the pattern of drinking every night heavily and that she [635] might hurt herself in that respect. I was afraid that it would ruin all of the communications that her and I had been struggling for up to that point to get to know each other better.

Q What were the reasons that you thought that those kind of things could happen?

I mean, were there other things that had happened between you and your mom that gave you a reason to believe that things would sort of fall apart if you told her, other times in your life or—

A Well, when my mom was in treatment the first time I went to group therapy with her for a week, every day for roughly seven hours, and was in the room with her and we discussed her problem, her drinking problem, and with the supervision and help from a counselor we were able to get to know each other better and I felt that it would destroy all that we had struggled for, to get to know each other better, as far as why are you drinking, and what can I do myself to be there for you to support you and keep you from drinking, because I don't want you to drink anymore because I see it ruins your health; I see it ruins—I see it ruins our communication with each other and it ruins the family structure.

I felt that if I told her that it would crumble the bridge that we were trying to cross to a better understanding of each other which was very important to me because I love my [636] mother

and I wanted to be closer to her and I was trying very hard to establish a close relationship.

Q Was there ever another time in your life when she found out about things going on for you and instead of reacting supportively things sort of fell apart?

A In high school I had an incidence of chemical abuse which I cured by myself, but when she found that out she started drinking very heavily so I saw her reaction to that and thought if she found out, that she would go back to drinking basically a self-destructive like she had.

Q Do you remember on the morning of your abortion and court appointment how you felt when you woke up in the morning?

A Yeah.

Q How did you feel?

A I was terrified. I was scared first of all because I had to make an excuse to get out of school and—

Q Do you remember what—

A I was wondering if that was going to go through. I had to lie about that, for obvious reasons. And I was worried that I was going to get caught in that and having to explain myself. I was just worried about all the people that I would talk to and what they would say to me and how they would think of me, how their reaction to me would be. I was scared of the actual procedure itself but I was very, very upset about having to go through numerous people to have to get permission to [637] have the procedure done. I felt very terrified to talk to strangers about such a personal thing. I felt in a way it was a violation to my personal life and that I was sharing things with somebody that I didn't know at all which made me very terrified.

I was very upset about it all.

Q Did you wait long at court before you saw the judge, do you remember?

A I waited about 45 minutes.

Q What county were you in; Hennepin or Ramsey, Minneapolis or St. Paul?

A Minneapolis.

Q Do you remember any of the things you were thinking while you were sitting there waiting? What did you think?

A I was very nervous. I was wondering if the judge would even give me permission to do this, which made me very nervous and very scared, just anticipating the procedure, having to wait to go through all of this before I could finally go back to the clinic.

I was worried about if I would say something wrong to influence the judge's decision, to maybe say no to my case, for whatever reasons he may have thought, I don't know.

Q Do you remember how long you were in with the judge?

A Roughly twenty minutes to half an hour.

Q Do you remember anything about what the judge asked you?

[638] A He asked me how old I was, what my name was and if anybody had influenced my decision to have the procedure done; if I felt really sure about my decision, which I told him yes and one thing that he said to me which to this day really still upsets me when I think about it, he asked me if I knew who the father was, which tells me what he thinks I am a whore and I sleep around and he didn't bother to ask me how long I had been going out with this guy which had been a year and a half at that time.

I got real cold signals from him like he didn't really think too highly of me because of the situation I was in and that put a lot of pressure on me because I felt that was a violation to me to say that, nobody can pin that on me, and I took it as an accusation that I was a "sleep around" and I didn't know who the father was, which I did. I didn't need that coming from a total stranger, for one thing.

I felt he could have been more sympathetic to my situation, which I didn't feel he was at all. He was a very cold man, made me very nervous, more nervous than I already was.

I didn't feel that was necessary, that question at all, that was a total violation to me.

Q How were you feeling by the time you got to the clinic for your abortion procedure?

A Well, having to go through all of that, my appointment was [639] scheduled at around 2:00 o'clock that afternoon and it took all of that time to go through this, just waiting for the judge and getting to the courtroom, getting a legal guardian and

I was a bundle of nerves. I was terrified. I was emotionally exhausted already from having to open up such confidential things about myself, very personal matters, as a female, to total strangers, and by the time it was time for the procedure I was a basket case.

I had been put through emotional stress not only by the judge, but by the time lapse, by strange faces, by accusations that were pinned on me which I felt was unnecessary, which upset me even more and I was worse off that afternoon when I went in for the procedure than I was already in the morning.

Q Did anything the judge do help you with your decision to abort without notifying your mother?

A No.

Q Do you think there is anything the judge could have done to help?

A No.

Q You said you were a bundle of nerves when you returned to the clinic. Did that affect in any way your abortion procedure?

A Yes, it did, very much so. In that procedure you have to be very relaxed.

* * *

TRIAL TESTIMONY EXCERPTS OF S. L., MINOR

[DIRECT BY MS. PINE]

[CROSS BY MR. ACKERBERG]

[712] * * *

Q S., how old are you?

A Seventeen.

Q That won't help, you have to talk louder.

A Seventeen.

Q Are you in school now?

A Yes.

Q Do you work?

A Yes, I do.

Q You work after school?

A Uh-huh.

Q Where do you work?

A Midwest Health Center for Women.

Q Have you ever been pregnant?

A Yes.

Q Have you ever had an abortion?

A Yes.

Q How old were you at that time?

A Fifteen.

[715] * * *

Q Let's talk about your mother first.

A Okay.

Q Can you describe to Judge Alsop what your mother is like?

A Well, my mother is a sweet, gentle, caring woman but she is very, very unstable. She has a documented past of severe mental illness. She has been hospitalized several times during my lifetime and many times before I was born.

Q And what is her diagnosis, at least as you understand it?

A There are several labels they have stuck on her; one that sticks with me is schizophrenia, manic-depressive. I try not to pay too much attention to things like that, but those are some that stick with me.

Q What did those—the fact that your mother was—had a history of mental illness, what was—what did that make her like as a mother?

In the family what was your relationship with her like because of that?

A Very unstable. No one could predict how her moods would swing from time to time. There could have been the possibility that she could have reacted totally supportive and caring and [716] motherly, but on the other hand it could have just broken her down emotionally and mentally and she could have completely slipped out.

Q Uh-huh. Is she in need of a lot of care at home?

A Yes.

Q In what way?

A She is heavily medicated and that is to prevent severe depression and she needs to be taken care of. She needs to be

reminded to take her medication. She doesn't—she is very—she hallucinates a lot, she hears voices and she is very sure people are out to get her and if she goes out people are staring at her and talking about her when they probably don't even realize she is there, but she is sure of that and she is really sure a lot of people are out to get her.

So she doesn't go out.

Q Have you ever talked to her much about personal matters?

A Sometimes, when there is a time when she is maybe in the mood, but then it is always so hurtful to me because it gets turned around, she will stab me in the back with it later when she is in more of one of her more typical moods.

Q What are her views on sex and abortion and things like that?

A Oh, that is just unheard of. The upbringing that she has had is that it was even taboo to talk about your menstrual cycle. Her mother never explained it to her, it was the curse, [717] when she got it she was terrified, she was bleeding all over the place, that kind of thing, and then when it came a time for me and I was becoming aware and I wanted questions answered I knew you were supposed to go to your mother even though I wasn't so sure I was supposed to go to my mother, I was going to ask her anyway and she just freaked out. She got real angry with me, and said, no, I don't want to talk about that, you are not supposed to know about that yet.

You will learn somehow.

Q Why, given all the things that you have told us so far, why did you decide in the instance of your pregnancy not to tell her about it and not to tell her that you were thinking of having an abortion?

A I knew she wasn't mature mentally enough to handle that situation. It would have been too much for her to concede that her 15-year-old daughter was pregnant.

Q What effect do you think it might have had on her?

A I think it could have easily put her back in the hospital again. It could have upset her and it would have upset my father that I told her and that would have been a conflict between my parents.

* * * * *

[719] * * *

Q Did you ever have a sense that there were things your mother didn't want to know about?

A There were things that my mother didn't want to know about?

Q Did you—was there ever a time that you sort of felt like she didn't want to know certain things, that she would be better off if she didn't know?

A Underlying—yes, because she would say, well, I want to know everything, but I think if she really did, had known like that I was sleeping with my boyfriend it would have been too much for her.

Q Has she ever been helpful to you in dealing with something that was difficult for you in your life?

A My brother's death, we helped each other a lot.

Q Now let's talk about your father for a minute.

What is your father like?

A He is very, very, very overprotective, very caring in a kind of screwed-up, mixed-up way.

Q Does he have a temper?

A He has a violent temper.

Q When you say caring in a mixed-up-screwed-up way, what [720] do you mean? When he is showing his affection how does he do that in a way that is sort of mixed-up?

A When he gets upset about something he will come at me just with a violent angry temper and he becomes an animal. He gets—he likes to kind of show his teeth and he will get real close to my face and he likes to get very violent and physical.

Q What is your relationship with him like?

A Turmoil, constantly. Ever since I entered my teenage years it has been one fight after another.

Some things are more serious issues, we practically fight about what kind of toothpaste to use, just about anything. We are just at each other's throats.

Q Do you talk to him about personal things at all?

A No. I avoid it because I know that he is the type of person that, like I am saying with my mother one time maybe in a mood where he might be sort of understanding to listen to that,

but on the other hand, later he will take it and turn it around and use it against me and put me down because of it.

Q Can you describe in more detail why you decided not to tell your father about your pregnancy and abortion?

What did you think he would have done or said or—

A His initial reaction would have been violent and angry and he probably would have hit me. He probably would have gone berserk. He would have just gone mad to hear that his little [721] baby, the youngest daughter could be so—

Q Was there ever another time in your life when he found something, he learned something personal that was going on and that he reacted in that kind of way?

A Yes.

Q Can you tell us about that?

A He is extremely bigoted, extremely prejudiced. He found out that I was dating a black boy and when he found that out he went bananas.

Any little thing, there was \$10 missing off the dresser one morning so he decided that I had stolen it from him and he went through my room and he started reading my diary and he slapped me for the first time in my life and he never apologized for it and it went on like that until I ended the relationship.

Everyday there was a threat of physical harm and constant yelling.

Q Do you think—so you don't think your father would have been helpful to you—

A No.

Q —in dealing with things?

[725] * * *

Q When you told the clinic that you didn't want to tell your parents did they explain the court procedure to you?

A Yes.

Q Do you remember anything about what your reaction was that you were going to have to go to court?

A Well, in a way I was relieved that there was some way that I wasn't going to have to tell my parents. I was at least relieved to know that. But I was also very confused because this

word, "court", comes out to you and you think, "Oh, my God, a judge up on a pedestal, and he is going to tell me, yes, he is going to tell me, no." A lot of scary pictures come into your mind that first moment.

Q Do you remember anything about how long you waited for a court appointment, like between the time you called the clinic?

A I would say about a week, week and a half.

Q What time did you get up in the morning of your appointment?

A The same time I get up for school, 4:30.

Q Did you eat, do you remember?

A I did not eat breakfast, I knew I couldn't keep it down.

Q How did you feel?

A Nauseated.

* * *

BY MR. ACKERBERG:

[733] * * *

Q S., what do you do for Midwest?

A I am a pregnancy counselor to teens.

Q When you found out you were pregnant in a certain sense you were glad because you felt that this was confirmation of your ability to become pregnant?

A Right.

Q And you were a little—you were even proud of it?

A It was just a comfortable feeling to know that my body was able to do this, with that confirmation.

Q Before you discovered your pregnancy you were not using contraceptive methods?

A No, not regularly, not consistently.

Q Had you thought about the possibility of becoming pregnant?

A Yes.

Q And what did you think?

A I had always thought all along this is what I am going to do if I ever did get pregnant, there is no way I am going to have a baby when I am 15 years old.

Q Why did you not use contraceptives?

A The idea of going into a drugstore, a pharmacist and a sales clerk and going to a clinic and getting a prescription for birth control pills I think I knew was the only truly [734] effective method of birth control, terrified me. The idea of all of these adults, you know, well, look at how old she is and she is doing this—my, my.

Q How long were you sexually active before you became pregnant?

MS. PINE: Objection, Your Honor.

THE COURT: Objection overruled, you may answer.

THE WITNESS: Two years.

BY MR. ACKERBERG:

Q Since you were 13?

A Uh-huh.

Q With more than one boyfriend?

A Yes.

* * * * *

[738] A Well, they have in two years they have witnessed me grow up and just show them a lot of maturity and responsibility. I mean, they gave me a car and I have taken care of that and I have taken care of putting gas in it and I have done well in school, I have been on the honor roll and I have gotten this job and I have done responsible things, concrete proof that I have grown up.

Q So you think that would affect their reaction?

A Right.

Q And how seriously it would affect them?

A Right.

BY MR. ACKERBERG:

Q S., what training did you have to be a counselor at Midwest?

A I am going through training right now with Helene. I watch her and several other counselors go through counseling sessions with minors and other women.

Q Have you taken any courses in counseling?

A No, I have not.

Q And you have no practical experience in counseling?

A No.

* * * * *

TRIAL TESTIMONY EXCERPTS OF SUSANNE SMITH,
SUPERVISOR OF GUARDIAN AD LITEM PROGRAM IN
HENNEPIN COUNTY

[DIRECT BY MS. BENSHOOF]

[CROSS BY MR. ACKERBERG]

[13] Q What do you consider the difference between maturity and capable of informed consent to be?

A I don't see there is a difference.

Q Isn't it true that your report to the guardian relies heavily on the minor having been given informed consent counseling by a provider?

A Yes, it does.

Q Now I see on question 10 of the report that you ask whether or not the minor has received counseling as to pregnancy alternatives. What if the minor replies no?

A We haven't had that happen.

I would expect if they couldn't talk about what alternatives were we might have some question about whether or not she was making an informed decision.

Q Have you ever had minors who are pregnant because of incest?

A I recall one situation that I interviewed a teenager who reported that she was pregnant as a result of a rape by a step-brother.

Q Do you think that it would be appropriate for a minor who a counselor knew was pregnant by incest to be counseled as to marriage?

A No.

Q So that for some particular minors counseling as to pregnancy alternatives such as rape and incest, some of these [14] might be inappropriate questions?

A That is correct, it may be.

* * * * *

BY MS. BENSHOOF:

Q Looking at question 14, when you asked if she lives with her parents, do you ask if it's biological parents, or is that made clear to the minor?

A I believe when we asked that question if the teenagers say yes we say is that both of your parents, but I don't think we use the term biological.

Usually they explain yes, my mother and stepfather, whatever, so we have some idea of what the situation is.

[15] Q So if a minor lives with a mother and a stepfather she might consider them to be her parents and answer it yes?

A Yes.

Q And on question 22 the minor elects not to notify her parents because: Is that always filled out in a narrative form by the guardian?

A Yes.

Q On the last page where it states recommendation of the guardian ad litem, is there a section which relates to emancipation?

A Yes.

Q Why is that section in this report if emancipated minors are not required to go through court?

A That is part of the difficulties that we run into. The statute has language that refers to an emancipated minor which leads to many problems that there is such a thing as an emancipated minor. All of the attorneys and judges that have been working with us tell us in Minnesota a juvenile court there is no such thing.

However we put it in because of the reference to it and also because when we do have these teenagers who might be married, who have had a child, who are living apart from their parents, it seemed like information that was useful in terms of making a recommendation to the court, things we wanted the court to know about the particular teenager.

[16] Q So that a guardian may check number A that the court should authorize due to emancipation even though technically emancipated minors are not supposed to go through the court process?

A I think that is the difficulty. I think in this situation emancipation is an anomaly in the sense of not being a legal process but a generally understood lay person's term, she is out living on her own. But all the instructions I have been given on this particular issue is there is no such thing as emancipation.

Q If a minor is living on her own, married and has a child, you don't go through this and say you can go home now, you are not required to go to court under the statute, or do you take it to a judge?

A We would take it to the court. Many of the questions we get from the clinics describe these kinds of situations and since we don't have any guidelines they go to court, so that there aren't any chances taken.

* * *

[19] * * *

Q About how many minors have you personally acted as a guardian for?

A Approximately 200.

Q How many minors have gone through the Hennepin County system and also through your guardian's office?

A Since August of 1981 through January 31 of 1986 the count is 2264.

* * *

[31] * * *

Q And have you ever made a recommendation that the petition not be granted?

A Yes, I have.

Q On what grounds?

A Well, it was a unique situation of a young woman, I believe she was 13, perhaps 14, who insisted on going to court but was not able to talk at all. She was either so scared or so frightened or I don't know what the problem was, but she could not give us any information or answer any of the questions.

Q So that was more that she couldn't participate in the judicial process, would that be a correct assessment?

A Yes.

Q You couldn't find out about best interest or maturity?

A That is correct.

[32] * * *

Q On the guardian's report form in question 22, I am not sure if it is—yes, 22, there is a space there for why the minor elects not to notify her parents.

Could you describe what are some of the general reasons that are noted on that form?

A The minors tell us a number of things. They may talk about being fearful of damaging a good relationship with their parents or having a bad relationship that they fear would get worse.

A number of the teenagers have talked about dysfunctional family situations where there may be alcoholism [33] or marital problems or battering, physical abuse, mental illness, unemployment, a number of different kinds of situations that at that time at least they don't believe that notifying their parents would help the situation at all.

We have had teenagers who talked about the fact that their biological father hasn't been seen for years. They may not know where he is. There may be a very hostile or unsupportive relationship. We have had teenagers who talk about the fact that they have been told specifically by their parents and that they would be kicked out of the house and we have had teenagers who have told us that has happened to them or they have seen that happen to older sisters.

We have had a lot of teenagers talk about older sisters in the family who have become pregnant and what damage that has done to the relationship with the parents.

We have had teenagers talk about the fact that they know that their parents are morally, on religious grounds, opposed to abortion and would not be at all supportive of them in this process; a number of reasons.

Q Ms. Smith, you have been in juvenile court for ten years and dealt with abused and neglected families and minors for ten years.

Do you believe them when they list these reasons?

A Yes, I do.

THE COURT: Believe them in the sense that they [34] think it is true, or it is in fact true?

THE WITNESS: I believe certainly that they believe it is true.

The scenarios that they are describing are not atypical of other kinds of families that we see in juvenile court, and so it seems to ring very true.

Q Are you familiar with the exception in the statute that says that if the minor declares she is a victim of abuse or neglect she should be exempted from the requirement?

A Yes.

Q Do you see teenagers coming to Hennepin County who report that they are victims of neglect or abuse, I guess it would be abuse?

A Yes, yes.

Q Why do they make it to the court system and not just be exempted from the statute, do you know why?

A What I have heard from teenagers that I have specifically asked, as well as the clinics, when the situations have occurred, is that the teens do not want this reported. We deal with teenagers from all counties as well as other states where people are not sure what would happen if something was reported. I think some teenagers are so fearful of their parents' reaction that they don't want this reported and would rather go to court than have it reported which would mean that their parents would find out that they were pregnant and [35] planning to have an abortion.

Q Based on your experience with the abuse field, do you think that child abuse is generally unreported?

A Yes, that is what all the people in the field strongly believe.

Q And you personally believe that?

A Yes, I do.

Q So it is your testimony, is it not, that those teenagers who are in a situation where there has been family abuse are not able or do not avail themselves of that exception in the statute?

A With the teenagers we have seen in court, that is true.

Q Do you have an opinion as to whether you believe going through the court process and seeing the guardian—now you

have interviewed the teenagers personally—is difficult for teenagers?

A It appears to be very difficult for them, yes.

Q What is the basis for your opinion?

A The teenagers that we see in the guardian's office are very nervous, very scared. Some of them are terrified about court processes. They are often exhausted, particularly if they have been driving around Minneapolis looking for the building. There are a lot of problems that they have just in terms of finding us. They are upset about and tell us that they are upset about the fact that they have to explain very [36] intimate details of their personal lives to strangers.

They talk about feeling that they don't belong in the court system, that they are ashamed, embarrassed and somehow that they are being punished for the situation they are in.

I had a teenager tell me last week when I was describing to her the location of the building, when I said the word Juvenile Justice Center she said I feel like a criminal and I think that is pretty typical of the reaction that the kids have when they find out they have to go to court.

They see court as a place for teenagers who have done something wrong.

* * * *

[37] * * *

Q Do you feel you are seeing a selected group of pregnant teenagers who you described how you instantly can recognize them in the waiting room?

A Yes, we are.

Q Would you say that the select group are the more educated middle class?

A Yes.

Q Wealthier minors?

A One of the things that has been commented on by most of the people working on this calendar is that these are a unique group of teenagers compared to the other teenagers we see in juvenile court and of course in the other guardian ad litem cases. We see a lot of teenage mothers and the differences have

to do with their plans for the future, education, their self image, their self concept, what they want to do with their life.

They are very, very sure that they are doing the correct thing and also very sure that they don't want to involve their parents.

Q So you have been the guardian in situations involving teenage mothers?

A Yes, I have had teenage mothers down who have said I [38] already have one child and I do not want another.

I have had teenagers talk about the fact that they have had a child and placed this child for adoption and do not want to go through that procedure again.

Q Outside of the parental notification, you also see minors or are appointed as a guardian for minors who are mothers and who are mothers themselves?

A Yes. These would be situations that come into juvenile court on the abused and neglect process.

Q You mean these are teenage mothers who abuse their children?

A Yes.

Q Do you find that to be a frequent occurrence?

A I don't know how I could answer the frequency question. When they come into court there is a problem that has been recognized and that is why they are in court, so we wouldn't see situations where there isn't abuse or neglect.

Q And do you interview these—you are not only the guardian for the child but you interview the teenage mother as well?

A My guardians do, in the process of the routine work, yes.

Q Do they do any assessment as to whether they consider teenage mothers mature?

A No.

Q When a minor is reporting for the interview with the [39] guardian, if the guardian hears then about an abuse situation, is she required to report that or does this court bypass law somehow undermine that legal requirement?

A It made it extremely difficult because of the laws saying that this is confidential and she is entitled to absolute confidentiality. So what we do with that is inform the attorney and the court.

Then we make a decision based on the individual circumstances of the case.

Q So you feel that this law exempts you from mandatory reporting if you hear about abuse in the guardian interview?

A We don't have clarity. I don't know how to answer, you know, that question.

We report it to the court.

Q And you don't know whether or not the court then reports it to the local authorities?

A In some situations that has occurred.

Q Do you have any opinion as to about how many minors who come to court come with one parent?

A About a quarter, 25 percent of the teenagers that we see are accompanied by parents. There are also additional numbers who tell us that they have informed one parent and there are also teenagers who appear with a parent and a step-parent who they consider to be their parenting parent.

Q Have you conducted interviews with these parents as well [40] as with the minors?

A Yes, I have.

Q What reasons—do you ask the parents why the absent parent cannot be notified?

A Yes.

Q What reason does the one parent tell you why the absent parent cannot be notified?

A We hear a number of descriptions of fathers who are long gone, basically abandon the family; problems with child support payments, lack of that, fathers who have had no contact and no conceivable parent interest in what is happening with their daughter. A lot of anger and resentment at that point, that they should be brought in when there hasn't been any contact for a number of years.

A lot of fears when the family might be currently involved in a custody battle, that somehow this is going to be brought into that process.

* * * * *

[43] * * *

THE WITNESS: Based on the teenagers we have seen that have been accompanied by their parents, we have heard from both the teenagers and the parents stories about family situations where it does not seem in my opinion appropriate for notice to be given to the absent parent. We have had parents that have been extremely angry about the fact that they have had to take time off of work and have wanted to be supportive of their daughter but are involved in this process because a parent [44] who has no contact or perhaps for a number of years or for some reason should not be notified is required by this law to be notified.

I recall two specific incidents, one was of a teenager who was I believe 16 accompanied to court by her mother. Her mother was in the process of getting a separation. The mother and the daughter both said that they felt that if the father knew that the daughter was pregnant that the daughter would be assaulted and so would the mother. That is what they believed.

We had another situation with a teenager who was 17, her father was institutionalized in a western state. She took the initiative to call the psychiatrist that was working with her father to ask whether or not she could have a notice sent and they said absolutely not, it would be detrimental to his particular care.

My opinion is based on the fact of the children, teenagers and the parents that we have seen talk about so many unique family situations where we are dealing with single parents and one parent who is assuming all of the parenting responsibility, that there just seemed to be a lot of situations where notice to one parent would be sufficient.

BY MS. BENSHOOF:

Q Do you believe that going to court is a burden to the parent?

[45] A The parent tells us that it is.

THE COURT: How would you figure out the cases where you feel notification of both parents is appropriate and where it is not appropriate except by providing for a court bypass procedure in the case where it is not appropriate to any one parent?

THE WITNESS: That is one of the difficulties with the process and if we are being asked to determine whether or not the teenagers are mature—

THE COURT: Or it is in their best interest it not be given to one parent?

THE WITNESS: Yes, what we are seeing consistently is the greatest majority of these teenagers are mature so it leaves us constantly asking what purpose we are serving.

THE COURT: You are talking about the whole statute, but your opinion related to notifying one parent.

You are saying your opinion was it is not appropriate to give notice to the absent parent in all instances or a number of instances?

THE WITNESS: Yes.

THE COURT: I guess my question is how does the—how can the law differentiate between those cases where you feel it is appropriate to give notice or it is not appropriate to give notice?

THE WITNESS: Well, based on what I have seen I [46] would like to see the law require notice only to the custodial parents, which would presume that the parent who is providing custody for the child, I presume in two-parent custodial situations, maybe that would apply to both of them.

* * * * *

Q I will rephrase the question.

The law has never worked in classifying a class of immature minors where there is no best interest, is that true?

A Yes.

* * * * *

THE COURT: Tell me what you—other than “yes”, [47] what have you just told me, that the law has never done what?

THE WITNESS: We have never identified a group of teenagers that we felt were immature.

BY MS. BENSHOOF:

Q No best interest?

A And no best interest. We have not seen those teenagers.

Q So in the nearly 3000 minors in five years of the statute the law has never operated to identify any minor for whom the court would say that there should be parental notification?

A No, not in Hennepin County.

Q That is fine.

Do you have an opinion as to whether or not this law has deterred some minors from telling at least one parent?

A We have had situations reported to me by my other guardians as well as teenagers that I talked to myself who have said that they will consider telling one parent, usually mom, sometimes dad, but since they would have to go to court anyway, because they are absolutely sure they don't want the other parent to know, they don't tell either one.

Q So in some instances the law has lessened parental involvement with a parent the minor might have thought would have been helpful, is that correct?

A In those situations, yes.

[54] * * *

BY MR. ACKERBERG:

A In the process of setting up the procedure, we got agreement from the people who were running the 24-hour child abuse hotline, which was the 24-hour hotline that we had to take calls of an emergency nature, we notified the clinics that that was available if there was an emergency.

We notified the clinics how to get ahold of Judge Oleisky who, because of what he is required to do, is always available and he is usually contacted through the juvenile center.

* * * * *

[55] * * *

Q When you sent the minor back for counseling, was it required that the minor go back to a clinic for counseling?

A No.

Q Is there any requirement that the minor be counseled at a clinic?

A No, just that she receive counsel.

[56] * * *

Q You mentioned on direct examination the case of a minor who was unable to respond to any questions posed to her by the guardian's office or perhaps it was the court.

Could you further describe that case?

A This was a situation of a very young teenagers; I believe she was 13 or 14. During the process both the guardian, which happened to be myself, talking with her as well as with her attorney, we couldn't get answers to any of our questions. She would just shrug her shoulders. she didn't want to talk, [57] couldn't talk, was too afraid to talk. We didn't know, we didn't feel we had enough information to be able to proceed with the hearing.

Q What happened to that minor?

A We went into court at her insistence and the judge at that time did not grant her petition.

Approximately a week later there was a rehearing and I believe in the interim she had been to the clinic, received some counseling and some information and had apparently gotten over her fear of the court process and was able to talk to us.

Q Was her petition approved?

A Yes, it was.

Q Do you know of any other denials in Hennepin County?

A There were two others that I am specifically aware of. There may be others but I certainly haven't heard about them. One was a teenager who told us that she did not want her petition granted because she thought if it wasn't her boyfriend would marry her.

The other was a 13-year-old who could not tell us that she wanted the abortion and was not being coerced. It appeared

that her mother was doing the talking for her and in both those situations the guardian recommended the petitions not be granted.

THE COURT: Were the petitions denied?

[58] THE WITNESS: Yes, they were.

* * * * *

TRIAL TESTIMONY EXCERPTS OF JUDGE
HENRY ALBRECHT, JUVENILE COURT
JUDGE OF HENNEPIN COUNTY

[DIRECT BY MS. BENSHOOF]

[CROSS BY MR. ACKERBERG]

[7] * * *

Q And do you know about how many cases you have heard?

A I would estimate approximately 500.

Q In these 500 cases that you have heard have you ever found a minor to be immature?

A No, I have not.

Q And have you ever found a minor entitled to have an abortion solely on best interest grounds?

A No, I have not.

Q So you have granted all of the petitions on maturity grounds?

A Yes, I have, and I think probably additionally on best interest grounds.

Q Sometimes after finding them mature you would also check the best interest?

A Correct. I have checked our form, which I am sure the Court has probably seen in evidence, it has three boxes to check and in all of the cases I can remember I have checked the box regarding finding that minor to be mature, as well as the third box finding it to be in the best interest of the minor.

But I think my decisions have been based primarily on the finding of maturity.

Q You don't remember any case that you found it to be solely on best interest?

[8] A I cannot recall such a case.

[9] * * *

A I find them to be generally above-average in appearance and in intelligence. I cannot state a general category as to what their appearance is, as to their emotional state I found their emotional state varies considerably and that some appear to be at one end of the spectrum, almost flippant, and others on the other end of the spectrum. On the surface appearance some are sad and crying and scared and they fall within that range.

Q Do you ever reassure them about the court process during the hearing?

A I always do.

Q Do you find that necessary?

A Only necessary with those who appear to be frightened. If I were to define necessary as what is needed for the child, I think it is an important part of the hearing to reassure them whether they appear frightened or not. So I do it in all cases, whether they appear to need it or not.

[10] Q What is your understanding of the meaning of the phrase mature and capable of giving informed consent, both phrases, or the same if you think they mean the same.

A I think that maturity and capability of giving informed consent are essentially the same. I think there may be some slight distinction but I treat them as essentially the same and my perception of what is meant by those phrases is that the child would possess the necessary judgment to make as important a decision as that is in her life; as far as her maturity, that she would have that judgment that I think she ought to have in making such a decision without consulting her parents.

As far as informed consent—

Q Capable of giving informed consent?

A I think that goes not only to maturity but necessarily depends on what she has been told at the clinic and so in almost

every case I am informed by the lawyer that she has been to a clinic, she has been informed of the risks and dangers and the procedure and so forth and I think it necessary that she has that knowledge before she is capable of giving informed consent.

In other words, I interpret it as more than a mental status in a vacuum, I apply the knowledge that she has been given in interpreting that term.

Q How do you interpret the term best interest?

[11] A I interpret that as being the minor's best interest and it almost seems self-defining to me, that it is best for her to have the abortion and I obviously separate that from what might be best for her parents or for the fetus or society and I tend to interpret that phrase as to what would be best for her under her circumstances in this point in her life.

Q So if the teenager chooses to have the abortion and that is her decision and she is able to give that and has reasons for that, then you would find it in her best interests to do so?

A Yes, depending on what reason she has given. In almost all cases the reason she gives do support a finding that it is in her best interests.

Q So your interpretation of the phrase best interest is best interest to have an abortion as opposed to continuing the pregnancy?

A Correct.

BY MR. ACKERBERG:

Q You are available to hold a hearing on a petition even though you are in the middle of a trial, correct?

[12] A That is correct.

Q You have been available to hold hearings on Wednesdays which were outside the normal hearing schedule, correct?

A I don't recall being asked to hear a hearing on Wednesday but I certainly would hear one and I would consider myself available even though they don't normally schedule them on Wednesday.

Q Are there any days of the week you would not be available to hold a hearing, hear a petition?

A There are no weekdays, no court days that I would not be available.

Q It is extremely rare when you see a minor who is visibly upset, isn't it?

A I don't think so. It seemed to me that in each group of six to ten that come through there is usually one that seems physically upset or if not every group I would say every other group.

I would say one out of twenty appear visibly upset to one degree or another. The degrees of their being upset obviously can vary, but something I can perceive as a lay person of their being upset.

[15] * * *

Q Are you aware of any minor whose confidentiality has been breached under the bypass proceedings?

A I am not aware.

TRIAL TESTIMONY EXCERPTS OF HEATHER SWEETLAND,
ASSISTANT PUBLIC DEFENDER IN ST. LOUIS COUNTY

[DIRECT BY MS. LYNN]

[CROSS BY MR. ACKERBERG]

[750] * * *

Q And when they come accompanied by a parent, is it usually the mother?

A Yes, it is. In fact I have never seen one of my clients come accompanied by a father.

Q Now have you had occasion, when the young woman has been accompanied by her mother, have you ever had occasion to talk to the mother?

A Yes.

Q And what have been the mothers' response to being in the court system?

A Two specific cases that I can remember; both of them were divorced from their husbands, the fathers of the minors, that they had been divorced for a lengthy period of time. One specifically was at least ten years. The father had had no contact with the daughter for that entire period of time and they

felt had gotten that man out of their lives a long time ago, why do we have to have him involved at all.

That was the mother's point of view.

Q And aside from those two circumstances, what general sort [751] of reactions have you observed in the mothers who have accompanied their daughters to court?

A They are nervous and I believe they are somewhat embarrassed because I had one mother that said, "I wish my daughter had not gotten into this 'trouble'," but they are embarrassed that they have to be there.

Q And how would you describe the emotional state of the minors you represent immediately prior to going into the hearings?

A I think they are very nervous because they don't really know what to expect, even though they have been told by myself and I am assuming the counselors from the health center what to expect; they are very nervous.

You have the sweaty palms, the looking off into space, the very nervous tics and habits that you might see in just about anyone who might have to go through a nervous experience.

[755] * * *

Q And now you cited physical violence within the home. Is that one of the main reasons the minors give you?

A Yes.

Q How common would you say that that response is?

A It is hard to put a percentage on it, but I would say at least a quarter of the time someone will say my dad hits me or my mom gets very upset and will slap me and that they are afraid that the parent would become violent as a result of this information.

Q And when they tell you this do you believe them?

A Yes, I do, in part because they are so reticent about telling me; they are embarrassed to tell me, but they feel they need to tell me so that they can get the judicial bypass or the order allowing them to have the procedure.

The other reason I believe them is that I handle [756] kids, you know, minors every day of the week in juvenile delinquency court and I like to think that I can tell the difference between someone who is lying through their teeth and someone who is not. Kids can be very good liars but most of them are not, and, you know, I can be fooled, I am not infallible, but I think these women are telling me the truth.

Q What are your observations about the minors' reactions to being in court?

A I think they are very nervous. They don't necessarily understand why they are there. They only know they have to be there if they are going to get an abortion without first notifying their parents.

They, as I have described, they don't understand why they are nervous. In fact, I had a parental notification hearing last week in which a woman was three weeks shy of being 18 and she had to go through a parental notification hearing. She was a straight A student from a local high school in Duluth and she was just a nervous wreck and I tried to calm her down and we appeared in front of Judge Nord who is a very kind person, very nice, and in fact at the end of the hearing he said to her, now that wasn't so bad, was it? I didn't bite you and she said, I guess not, scampered off out of the courtroom because she was nervous and afterwards mostly these women feel relief like, "I am done." It is like the big obstacle is [757] over, is done with.

* * * * *

BY MR. ACKERBERG:

[767] * * *

Q There has been at least one occasion where there was a possible confidentiality problem because the minor knew someone who worked at the courthouse, right?

A There have been several problems, yes.

Q And on at least one occasion you made arrangements to have the hearing in another courtroom than the usual courtroom to avoid recognition of the minor by a third party?

A Yes, that is correct.

If I might explain, there were three minors that were coming in that day; one of them was the stepdaughter of a probation officer, another was a niece of a judge and they were both frightened about being seen by relatives. Therefore, I moved it from third floor up to fourth floor and I kept them in the ladies bathroom awaiting the court appearance which is down the hall in a small courtroom.

Q And confidentiality was reserved?

A To the best of my knowledge. We took them down the back stairway.

* * * * *

TRIAL TESTIMONY EXCERPTS OF LAURA HUNTER,
COUNSELOR AT PLANNED PARENTHOOD OF MINNESOTA

[DIRECT BY MR. PENTELOVITCH]

[CROSS BY MR. GALUS]

[836] * * *

THE COURT: My question is do you have an opinion?

THE WITNESS: I have an opinion, yeah.

THE COURT: As to whether or not the statute has resulted in—has or has not resulted in some minors talking to their parents who would not have talked to them, but for the statute?

MR. PENTELOVITCH: Do you understand the question he has just put?

THE COURT: If you don't tell me.

THE WITNESS: You are asking if I—

THE COURT: I am asking you first if you have an [837] opinion on whether or not—now, I can't even tell you what I am asking—whether or not the statute does or does not result in some minors talking to their parents about their pregnancy and their abortion who would not have talked to them but for the statute?

THE WITNESS: Yes.

THE COURT: You have an opinion?

THE WITNESS: Yes.

THE COURT: All right.

BY MR. PENTELOVITCH:

Q What is your opinion?

A My opinion the way you phrased it is that the ones who by the time they talked to me had talked to the parent, both parents or had told one parent, then I have told them about the law, that has often, it seems to me, precipitated the minor to telling the other parent or to definitely telling the other parent, so I think that has made a difference there.

The majority of minors though, I think, already decided pretty much even before I tell them about the law if their parents are going to know or not, you know, if they did know anything about the law I asked them if they told their parents, either yes or no, but I am going to, or no, they are not going to.

* * * * *

[1097] * * *

BY MR. GALUS

THE COURT: When you counsel these folks, Ms. Hunter, they have already been scheduled, most of them have already been scheduled for the abortion procedure by the time you get to what you call your abortion counseling?

THE WITNESS: Right.

THE COURT: After you go through these alternatives, how often does it happen after you go through parent, single parenting or marriage or whatever the alternatives are, that you speak of, how often does it happen that the patient cancels the appointment and says I changed my mind, I am going to go out and carry to term or I am going to go out and get married or whatever the other alternatives are?

[1098] A Absolutely.

Q She is sufficiently mature to make the decision?

A Maturity is a hard thing to determine, I think—

Q Well—

A —in my opinion. Even a young woman going through the whole process of deciding what to do with that unplanned pregnancy and the stresses that incurs, it is a maturation process in itself. I think that they are mature enough to make the decision, that we absolutely make sure. Whether they are mature generally in life is not for us to say.

Q But one of the purposes of your counseling, and not the counseling imposed, ordered, required by a court, but the counseling you as professionals believe you should engage in, one of those purposes is to determine whether the minor is sufficiently mature to make the abortion decision, right?

A Right.

Q And now in the numbers of young women in the age group 13 to 17 that you have counseled have you ever turned one away on grounds of immaturity?

A We have had women in that age group come back for another counseling session before either court or the abortion because we didn't feel they were firm, because there was ambivalence.

Q My question is really directed to maturity. Have you ever refused to perform an abortion in the age group 13 to 17 on the grounds that you believed as a result of your counseling that [1099] the youngster was not sufficiently mature to make that decision?

A Not unless the immaturity was tied into ambivalence, you know.

Q Is ambivalence in your professional view a sign of immaturity for purposes of a decision whether or not to have an abortion?

A No.

Q What's then the connection between ambivalence and maturity?

A Someone can be ambivalent and immature and in that case I guess that would come into it. But I don't think being ambivalent itself is a sign of immaturity, no, no.

Q So you have turned away one or more youngsters on grounds of ambivalence?

A Correct.

Q And have you turned away any youngsters on grounds of immaturity?

A No.

MR. GALUS: Thank you.

THE WITNESS: None that I recall.

* * * * *

TRIAL TESTIMONY EXCERPTS OF ELISSA BENEDEK, DIRECTOR OF RESEARCH AND TRAINING AT THE CENTER FOR FORENSIC PSYCHIATRY, ANN ARBOR, MICHIGAN

[DIRECT BY MS. LYNN]

[CROSS BY MR. GALUS]

[904] * * *

BY MS. LYNN:

Q Dr. Benedek, could you define what a dysfunctional family is?

A Yes. A very simple definition of the dysfunctional family is a family where there are serious problems. Those problems can be either in terms of communication, in terms of control of emotions, in terms of abuse, either sexual or physical abuse; in terms of alcoholism, in terms of emotional disturbance. It is a family that has problems in coping with day-to-day functioning. That is a very simple definition but I think understandable.

Q What would you say characterizes the communication between various members of a dysfunctional family?

A The communication between various members—first, let me say dysfunctional families exist in all socioeconomic levels. It is not just the poor or the middle class or the rich where there are dysfunctional families.

All socioeconomic levels have them and in fact I primarily treat families in my private practice of an upper middle or upper socioeconomic level. All educational levels have dysfunctional families. It is not a function of the poor or the uneducated.

Now in regard to problems of communication there are a variety of different kinds of problems. Sometimes there [905] is too much communication in a dysfunctional family, for example, in a family that is dysfunctional because of divorce, in some cases the adolescent knows much too much about the parents' dating, sexual behavior. The adolescent knows too much about the parents' problems of daily living and is too burdened so there can be too much communication.

* * * * *

[911] * * *

Q Could you talk a little bit about the effect of separation and divorce on family relationships, specifically in terms of communication?

A Yeah, okay. The question deals with the effect of separation and divorce on communication.

After a divorce there is generally a custodial parent and a noncustodial parent. More than likely the custodial parent is still the mother. Unfortunately for hosts of [912] reasons the noncustodial parent often has very little contact with the child. It may be that the mother keeps the noncustodial parent away, it may be because of sadness and depression, the noncustodial parent chooses to stay away; it may be that there is physical separation. But generally there is very little interaction between the noncustodial parent and the child.

So there is not much communication and certainly not much communication about important issues.

The literature, Wallenstein & Kelley(ph), some of the material I have written, Lamb, hosts of authors have talked about the quality of communication between the noncustodial parent and the child. Both are, even when they see one another, extremely awkward and communication is around superficial issues, where will we go today, where will we eat today, when will I see you next, that sort of thing.

* * * * *

[927] * * *

Q What about a judge who saw an adolescent for fifteen minutes?

A Again one of the things that I need to stress is that it takes education, training and experience to interview an adolescent. It isn't something that you can do just because you have known adolescents.

It is sort of like saying I can do brain surgery because I have watched somebody do it. There are levels of skill in talking to an adolescent and you need training and experience and supervision to do it. So talking to somebody for fifteen minutes will not give you valid and reliable information.

* * * * *

[1983] * * *

BY MR. GALUS:

Q Now you use the term dysfunctional family?

A Yes, sir.

Q You contrasted that with a normal family?

A Yes, sir.

Q Are those, as you see them, regular psychiatric terms or lay terms?

A I try to define them with lay language.

Q What is a normal family?

A In lay terms a normal family is a family where there is reason, functioning reasonable communication, reasonable amount of trust, those sort of things.

Q What is a normal family in nonlay terms?

A Pardon me?

Q What is a reasonable—excuse me, a normal family in nonlay terms?

A A normal family is non—okay, let me add, in lay terms one of the other things that seems to be considered, a normal family or an ideal family, is a two-parent family, a non-structured family, a family where there has been no divorce or no separation, a family that is somewhat—well, the typical family picture of a family is a two-parent family with several youngsters with no fracture, no dissolution, okay?

A normal family in terms of a professional opinion—

[1984] Q Let me back up then, did I understand you just to tell us that you equate normal with ideal family?

A No, I did not.

Q But a normal family in lay terms, a divorced family is abnormal?

A Many lay people believe that a divorced family, per se, is abnormal. That is not the case.

Q Well, do you believe that?

A No, I do not believe that.

Q What are your beliefs as to a normal family?

A My belief as to what is a normal family is a group of adults and children living together in a reasonable amount of harmony with reasonable communication, with reasonable trust, with mutual dependence on, and independence on one another.

Q Now is a dysfunctional family as you have testified to it in your direct testimony, the opposite of a normal family?

A A dysfunctional family can have some normal parts into it, but it could have some one of those areas that are disturbed.

Q Are there normal dysfunctional families?

A Are there normal—are there normal families with some dysfunction, how is that—

Q You used the term dysfunctional families, didn't you?

A Yes.

Q When you used that were you contrasting those families from normal families?

[1985] A Yes.

Q How does a dysfunctional family differ from a normal family?

A A dysfunctional family has impaired communication, impaired trust, impaired dependence, impaired independence from one another. It may be dysfunctional in other ranges.

There are families where there is physical abuse, where there is sexual abuse, where there is alcoholism, where there is incest, where there is too much communication among the generations and so forth, so there are a wide variety of parameters in which a family can be dysfunctional.

Q As you use the term, how many families are dysfunctional?

A How many families are dysfunctional?

What is the percentage?

Q Do you have an opinion?

A No, sir, I do not.

Q It could be as infrequent as less than one in a thousand?

A I have no opinion.

* * *

[1995] * * *

Q I notice from your resume that you have written to some extensiveness on issues of custody?

A Yes, that is correct.

Q And have you testified in connection with such proceedings?

A Yes, I have.

Q In what circumstances have you testified, generally speaking—

A Well—

Q —in custody matters?

A Well, in regards to the establishment of custodial environment, who should be the custodial parent; in regards to the issue of joint custody, in regard to changes in the custody, in regard to visitation arrangements, those sort of things.

[1996] Q Have you ever testified in support of visitation arrangements for the noncustodial parent?

A Of course I have.

Q I presume in your—on those occasions you rendered your professional opinion that the child's best interest was involved in continuing in some manner the—

A Yes, I have.

Q I take it in your professional view the noncustodial parent in—even in cases of divorce has things of value to offer to his or her child?

A I believe it is the child's right to have contact with the noncustodial parent, if there is no physical, sexual or emotional abuse, that is correct.

Q Well, have you testified on occasions in the child's best interest to have continued involvement with a noncustodial parent?

A Yes, I have. But then that has to be qualified. You are giving me very general statements, I do not think it is in the child's best interest to have visitation with a noncustodial par-

ent around simply the issue of pregnancy and what to do about a pregnancy. I believe it is important to have an ongoing relationship if possible with the noncustodial parent for the child.

* * *

[1997] * * *

Q You indicated even in a normal healthy family communication about sex is very sporadic and incomplete?

A That is correct.

Q In the mother-daughter situation it tends to be limited to menstruation and matters of hygiene?

A Often that is correct.

Q Development of breasts?

A That is correct.

Q And not often, if ever, concerning abortion or pregnancy?

A I didn't say if ever, I said not often.

Q Not often?

A Yes, sir, that is correct.

Q Okay. Well, if this incomplete communication is the result, even in normal healthy families, how can we predict that children accurately know how their parents will react to issues of abortion and pregnancy?

A Oh, that is a very good question and the answer to that—

Q Thank you.

A —is that communication is not always verbal. A lot of communication is nonverbal.

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TRIAL TESTIMONY EXCERPTS OF GARY MELTON, PROFESSOR AND DIRECTOR OF LAW-PSYCHOLOGY PROGRAM AT UNIVERSITY OF NEBRASKA, LINCOLN

[DIRECT BY MS. LYNN]

[1114] * * *

Q All right. Dr. Melton, in what ways has competency to consent to medical treatment been defined in the psychological literature.

[1115] A Well, most of the studies have looked at several different sorts of models of competency; one being simply whether or not a person is able to express a preference, to make a decision.

That is obviously the lowest standard.

A second standard is an understanding which is usually thought out in terms of knowing the nature and consequences of a procedure, its risk and benefits, and the alternatives and their nature, consequence, risk and benefits.

THE COURT: Once again, knowing the nature—

THE WITNESS: The nature and consequences and risks and benefits of a particular procedure and its alternatives.

THE COURT: And you added a third to that too when I interrupted you.

THE WITNESS: Well, nature of consequences, risks and benefits of a procedure, and the same for its alternative, the alternatives that one might choose.

THE COURT: That is the alternative part.

THE WITNESS: Right. Sometimes there is also discussion within that of appreciation, which adds an emotional component in some people's minds of sort of having a gut feeling about it as well as cognitive understanding.

Other times that is thought about in terms of understanding how a particular procedure or decision applies [1116] oneself. So that somebody, for example,—a good example is in terms of adult mental patients who may be able to describe very well all of the—or major risks and benefits of medication, but then say I am not crazy, it is somebody else this belongs to.

There is a question then about how one views that. Obviously you can have different levels of understanding but that is an approach to understanding competency.

A third way is in terms of focusing on the process of decisionmaking so that not only do we look at whether or not an individual understands the attributes of a particular decision, but also whether or not they weigh the risks and benefits rationally, whether they take what seems to be the salient aspects into account and can balance them.

That sometimes is talked about in terms of the reasonableness of the decisionmaking process. Then the final way that it is looked at is in terms of the reasonableness of the outcome of decisionmaking, that is the actual decision that one would make consonant with what at least some people think a reasonable person would make. Usually in research that has been defined by getting expert judgments as to what the best decision is and then comparing the actual decision that someone makes or says they would make with what experts think the reasonable thing is to do.

BY MS. LYNN:

[1117] Q And these, I think it is four—

A Right.

Q —tests you have laid for lack of a better word, are they alternative ways of looking at competency to consent or how do they work together?

A Well, yes, they are essentially alternative standards and usually when psychologists have attempted to understand competency to consent they develop data that is relevant to each standard so that the law can then take what they will in terms of what the appropriate standard is in a particular context and look at what it is children, adolescents, adults can do.

THE COURT: You mean there is a different standard or approach to competency to consent depending upon the context, is that what you are saying?

THE WITNESS: No, no, no.

THE COURT: Depending upon the type of decision it is?

THE WITNESS: No, sir.

What I am saying is that the law might—or as a matter of policy we might decide that what competence to consent means in different contexts is different and what I am saying is a psychologist's approach, we don't make that judgment, we simply say that this is what we can say about whether or not minors express preferences; this is what we can [1118] say about how well they understand a decision; this is what we can say about how well they reason about a

decision; and then what we can say about what minors in fact do when given a decision.

THE COURT: You have given me four ways, as I understand it, to—which are models of competency as you call them?

THE WITNESS: Right.

THE COURT: I guess what I am trying to figure out is do you apply the same model in the context of any type of decision or does the model that you apply depend upon the nature of the decision that is having to be made?

THE WITNESS: The research has tended to look at all four sorts of approaches within different kinds of decisions.

THE COURT: Okay.

THE WITNESS: I should add not all studies look at all four, but in terms of how they have been reviewed they tend to get compartmentalized that way and some studies in fact look at all four.

* * *

[1121] * * *

A What I was starting to say is that what we—what we also know is that most people don't, in their making decisions in most contexts, systematically weigh risk and benefits, that it is not like taking a probability of a harm and a probability of a benefit and adding them all up and then doing Bayesian equations to see what you are going to come up with in the end or what the right probability is: that people usually end up making estimates of base rights that are wrong and that is true for professional too, I might say, and part of it is because we tend to focus on what is really in our memory, the jargon term that is used is "available," and the things that are most available are those that are most emotionally charged, that are most recent, or that happened most frequently in our own experience. What happens in our personal experiences may not be representative of the real risks and benefits across time, so that the sort of short answer is most people make pretty good efforts to make decisions; most of the time they make decisions that are reasonably in their benefit, but that most people, most adults, [1122]

don't systematically and rationally weigh risk and benefits, that there are lots of things about cognitive processes that get in the way of our making fully reasoned decisions.

The other sorts of things are ones that are perhaps more commonly known in terms of very high or very low levels of anxiety affecting performance and sort of situational variables affecting decisions.

An example of that in terms of consent would be what we popularly call the foot-in-the-door technique, so that to give an example, studies on organ donations and tissue donations find that you get fewer people saying they will donate organs if you just say will you donate your organ; but if you first say, may I prick your finger and then say may I take some more blood and then may I talk to you about this and so forth to finally asking, well, now, will you donate your organ, you will get much higher compliance rates.

So that there are factors that affect how people decide that depend on the way in which the question is framed.

* * *

Q And now, still talking about competency to make decisions in general, how do adolescents compare to adults as you have just described them?

A In general adolescents look pretty much the same as adults do, that is—

THE COURT: You had better give me your definition of adolescence so we are talking about the same focus we have [1123] heard from others.

THE WITNESS: Sure. Most of the studies that have tried to compare adolescents and adults have compared 14-year-olds against 18 and 21-year-olds. But the discussion, when people—when there have been reviews of the literature about comparing various age groups, they tend to talk about adolescence beginning somewhere at 13-14 and moving usually to legal maturity, although psychological adolescence can sometime continue after that.

11 to 14 is commonly seen as a transition period.

THE COURT: How are you using it when she asks you about adolescence?

THE WITNESS: Again, most of the studies I am going to talk about have used 14 years old as a comparison group or they have used junior high and senior high students if they go across age groups.

MR. GALUS: Excuse me, if the witness is going to respond to questions about adolescent decisionmaking I would appreciate it if we could have questions framed so we know when we are talking about 14-year-olds or other groups.

THE COURT: Well, I don't quite know, your studies deal with 14-year-olds, but you are talking 14—13-14 to—

THE WITNESS: Well, they are both kinds, they are studies—most of the real life studies across age groups, in other words, as I said, they will have elementary school [1124] children versus junior high versus senior high and do correlational kinds of things in looking at when kids begin to form different kinds of skills or competencies.

The cross-sectional studies, those who take out age groups have tended to use 14-year-olds as a comparison group against legal adults, usually 18 or 21, and against elementary school children, and that is often, in some of the studies it has been like 9-year-olds.

THE COURT: Tell us what you are going to be opining about, when she says tell us the difference between adolescent competency—

THE WITNESS: In general for adolescence we are talking about by the time a youngster or a person is 14 they have crossed into most of the cognitive and emotional characteristics that typically get used as adolescence.

THE COURT: Just tell us which group you are going to be referring to, if you can, doctor, when she said compare adolescents to adults, what are you talking about?

THE WITNESS: I am basically talking about junior and senior high age.

* * * *

[1128] * * *

THE WITNESS: All right, by age 14 in both real life studies involving clinical populations as well as nonclinical

populations, and involving general groups of adolescents, say from a school population, adolescents are not differentiable from adults, according to the four tests; that is that adolescents are just as likely to express a preference, just as likely to understand the nature of the decision; just as likely to weigh risk and benefits systematically; and tend to make or at least to say they would make decisions that are like those that experts think are reasonable.

THE COURT: I want to ask you about that standard a little-later on.

BY MS. LYNN:

Q Dr. Melton, what does maturity mean as opposed to competency to make decisions?

A Maturity is not a term of art in psychology. As I understand it, the way it is used colloquially it would mean something like what psychologists often talk about in terms of adaptation or of higher levels of development.

So that it would include being able to form real—exchanging relationships, ones that are psychological as well as based on activity. It would include ability to weigh to make complex decisions, to weigh risk and benefits; to

[1129] THE COURT: Okay.

BY MS. LYNN:

Q Would it be possible, doctor, to have someone who is immature, and using that phrase in the colloquial way that you have described it, would it be possible to have somebody who is immature and at the same time consider them competent to make certain decisions?

A Yes. To stick with the understanding standard, for example, a particular kind of decision may be a very simple one, it may be that there are essentially no risks and a clear benefit and what is going to happen is not complex at all.

In that instance, obviously someone who is not a very good reasoner in general terms still could have a good understanding of what was going to happen in a particular context so that that

competency and that decisionmaking need to be thought about in terms of a general competency, the sort of thing we were just talking about, about how people—their sort of general reasoning style and abilities to reason, but also in terms of ability to handle a particular kind of decision and in fact the correlation is nowhere close to perfect in that.

Q What do you mean when you say the correlation is nowhere near—

A Well, if you look—you use some sort of general measure [1130] of competency, generally adaptive, nonpsychiatric adults, for example, and compare them to people whom we believe to be impaired in their general reasoning, many people who have general incompetencies can still be quite competent to make specific decisions.

My example earlier about knowing all the risks and benefits of medication and thinking through and having pretty good reasons for why you are going to take it or not take it, but also not dealing very well with demands of everyday life would be an example of that.

By the same token, you could have someone who is very together, very competent, but in a particular context has a mental block about it for emotional reasons, or simply lacks the information that is necessary to handle the decision because of its complexity, and it being foreign to one's experience.

* * * *

[1137] * * *

Q And in general how do adolescents compare to adults in their capacity to make informed decisions about medical treatment in general?

A As I have already said, there is no difference in all the existing studies.

Q What is the importance of the parents to the adolescent decisionmaker in general, what is the parents' role?

A Well, it depends on the kind of decision and also on how far along in adolescence we are talking about. Older adolescents in particular tend to go to make their own decisions, but to get information that is relevant from anywhere including parents.

Younger adolescents or junior high age tend not to go to parents very much but they also value parents' opinions about serious matters. There is a classic study by Brittain that found that when we were thinking about sort of trivial sorts of decisions, hairstyle, for example, that early adolescents conformed primarily to a peer group, but when you think about more serious decisions like choice of school [1138] curriculum, for example, that early adolescents defer primarily to parents in making those decisions so that across the range of adolescents most adolescents tend to look to parental information.

Obviously it depends in part, and I am talking in general terms, it also depends on what the specific relationship is between the adolescent and his and her parents.

Q If an adolescent is found to make one decision regarding medical treatment is it reasonable to think that she or he would not be competent to make—would be competent to make decisions about other kinds of medical treatment?

A Could you repeat that?

Q Do you want me to repeat that question?

A Yes.

Q Okay.

If an adolescent is found to make—competent to make one kind of decision regarding medical treatment, it is reasonable to assume that he or she would be competent to make other decisions about other kinds of medical treatment?

A The odds are they would be, the caveat to that is what I have already said, you have to look, with each particular decision, but in general people who can make one kind of medical decision also can make other kinds of medical decisions when they are presented with sufficient information.

* * * *

[1144] * * *

Q Dr. Melton, are you familiar with Minnesota Statute 144.343, the Parental Notification Law?

A Yes, I have read it.

Q And in your opinion is there any empirical basis for the Minnesota legislator's determination that minors are competent to make all decisions regarding pregnancy-related services by

themselves but are not competent to choose to abort by themselves?

MR. GALUS: I object to the form of the question; it is assuming facts not in evidence, namely the opinion of the Minnesota legislature.

MS. LYNN: Your Honor, I would ask you to take judicial notice of the fact that the Minnesota law allows minors to self-consent to all pregnancy-related services except for abortion. It is right there in the statute.

THE COURT: Yeah, I think I understand that. I understand what your question is. I think the objection is overruled and you may give your opinion.

THE WITNESS: I don't see any basis in the research literature for making that decision.

THE COURT: Your testimony is in your opinion [1145] there is no empirical evidence for the distinction between medical services generally and abortion services in particular?

THE WITNESS: Right. Only as I have heard mentioned, the only thing that makes the abortion decision a bit different is the nature of the moral and social considerations that apply and those presumably also apply to pregnancy decisionmaking more generally.

* * *

[1146] * * *

Q Do you have—what is your opinion regarding the differences between those adolescents who choose to abort and those who choose to carry to term?

A There have been several studies comparing general psychological wellbeing of teenagers who have chosen to carry to term and those who have chosen to abort. All of the studies have simply given a personality inventory and looked at how the adolescent compares against national norms. In general the three studies that have been done; two involve the California Personality Inventory, which is a personality test that crosses a variety of different personality traits, and then an eroticism scale, in all three studies the adolescents who had chosen to

abort looked healthier than those who had chosen to carry to term.

THE COURT: Do they use the Minnesota Multiphasic for that?

THE WITNESS: Not in these particular studies. They have problems with the adolescent norms in the MMPI, so there is some good reasons not to.

THE COURT: When you say healthier, what does that mean?

THE WITNESS: They are closer to their—not closer to the extremes, in other words, in general those personality scales which are intended for research and personality [1147] in general, generally it is assumed that closer to the mean you are on a given scale, that is closer to the average the healthier you are; and the further you go out on the extremes, the more unusual your attitudes or feelings or behaviors that you report the less healthy.

* * *

[1155] * * *

Q Now you testified earlier, Dr. Melton, that you are the chair of the American Psychological Association's Committee on Adolescent Abortions, is that correct?

A That is right, or the Divisional Committee, Interdivision Committee, yes.

Q Could you explain what the interdivisional committee is?

A It is the committee that was established by four of the divisions of APA. The divisions are groups of psychologists that vary in number but usually are around a couple of [1156] thousand, that chair particular professional interest in research or practice. The divisions that sponsored this particular committee were the Division of Child, Youth and Family Services; the Division of Population and Environmental Psychology; the Division of Psychology of Women; and the American Psychology Law Society.

The committee included representatives of the various divisions that were involved and was charged with doing two things—

THE COURT: What is the name of your committee?

THE WITNESS: Interdivisional Committee on Adolescent Abortion.

THE COURT: All right.

THE WITNESS: The committee had a dual charge. The first was to review what was known and what needs to be known about psychological assumptions that have underlay policy and law on adolescent abortion and, secondly, to provide some guidelines for psychologists that were involved in research or counseling with respect to abortion by minors.

BY MS. LYNN:

Q And who wrote that report?

A I did with input from other committee members.

* * * * *

[1160] * * *

Q Now turning to that part of the report that concerns itself with examining the assumptions courts have made about minors faced with abortion decisions, can you go through and summarize what the report concludes about each one of these assumptions?

A Yes. In respect to the quality of the decisionmaking, the general sort of conclusion of the committee is one I have already alluded to in my own testimony with respect to there not being a great deal of literature on abortion decisionmaking per se, but to the extent we have got that, plus the treatment decisionmaking literature, suggests that minors are not differentiable from adults or adolescents, I should say, are not differentiable from adults except with respect to some of the particular factors that they consider; notably again the social effects of their decision, how it is going to affect their [1161] family, and perhaps other critical people.

The major issue with that is in terms of the somewhat different approach that adolescents tend to make to the decision than adults do is that adolescents tend to delay in making the decision, delay in seeking health care and so on.

And we discussed whether or not requirements for parental involvement would be likely to increase the reasoning or the quality of the reasoning of the decision; and generally concluded in our opinion that it would not. We were concerned about increasing the delay and therefore increasing risk, both physical and psychological.

With respect to the psychological sequelae of abortion in adolescents, again many of the studies have not separated the samples by age. To the extent that they have the findings have been generally consistent with the general conclusions in the literature on the effects of abortion which is that there are—there is some short-term anxiety and depression, not clinical depression, to distinguish it from the testimony earlier this morning, that is sadness as opposed to being a depressed person.

And that over time, that that tends to extinguish itself. That there are slight age trends, that is, that minors are slightly more apt to have some negative sequelae than adults are. But the magnitude of the effects is small. [1162] So their responses are just about unheard of, and the age trend can be accounted for by other things.

Again the tendency to delay, the fact that adolescents who have abortions often are, if not coerced into doing it, at least it appears to be somebody else's decision when parents bring them to have an abortion. In that sense having less support, but that when there is adequate support there is no reason to believe any more effect on the adolescent than adults.

Then we also looked at the assumptions about the relative effects of abortion and carrying to term and concluded that in fact there is much more risk in carrying to term in part because of the untoward social effects of adolescent parenthood which are well documented in terms of failed marriages and if there is a marriage, interrupted education, family discord and so on.

So that to summarize the general conclusions were that there is no special reason to be concerned about adolescent decisionmaking about abortion as opposed to adults; that they are—that notice, not necessarily notice statutes, statutes which mandate parental involvement are not necessarily going to result in more reasoned decisionmaking and may, in fact, have some deleterious side effects and that the assumption of markedly

severe effects of abortion on minors isn't substantiated by any of the available literature.

[1164] * * *

Q In your opinion, Dr. Melton, is there any empirical basis for the assumption that young women under the age of 18 who are given the necessary information and given an opportunity to explore alternatives need to be protected from making hasty or ill-informed decisions about abortion?

A I am not sure what—could you spell out what you mean by needing to be protected?

Q Well, okay.

In your opinion is there any empirical basis for the assumption that young women under 18 who are given the necessary information and who have explored the alternatives are in any sense less competent to decide for themselves whether to have an abortion or not?

[1165] A There is no evidence to differentiate adolescents on that point from adults.

TRIAL TESTIMONY EXCERPTS OF K. M., MINOR

[DIRECT BY MS. PINE]

[CROSS BY MR. ACKERBERG]

[1235] * * *

Q Why did you ultimately decide to have an abortion?

A Well, I wanted to go to school, I felt that R was old enough; I felt I was mature enough to raise a child but I didn't think that the child would benefit from me being a parent. I did not feel in myself that I could carry a child to full term and be able to give it up for adoption. Then I thought I would want to keep it and I knew it would have been better with somebody else.

I decided that because I wanted to be what I am now, going into my third year of nursing and I wanted to be a nurse.

Q Did you ever consider telling your father?

A Well, not really, no, I didn't. I considered him but I never considered the fact of telling him. I was afraid. I was always afraid. The first thing was does my dad have to know,

when I told my mom, you know, I said I want Bert to know but I don't want Ed to know.

Q What did you think would happen, Bert is your stepfather?

A Bert is my stepfather.

Q What do you think would happen if he knew? What were you afraid of?

A I was afraid he would come right to Minnesota. I was [1236] afraid he was going to take me away from my mom because he always used to send her letters and send us letters that said she was crazy and just things—I was afraid that he was going to blame it on her, that she was nuts and didn't raise us good enough because I ended up getting pregnant and it wasn't—I was fearful for her and for me because he was such—

Q Was there something that had happened in the past that made you worry that he would come to Minnesota and take you away from her?

A When he came to visit us one time and said that he was going to shoot my mom, he threatened to shoot my mother and on several occasions wrote letters saying she was dead and he was going to get his kids.

On one occasion when me and my sister were down visiting him during the summer he wouldn't let us come back to Minnesota but we were under the impression, he told us that my mother had written and we could go to school down there and everything was okay but we never had contact with her and we didn't know what was going on.

THE COURT: Slow down a little bit.

THE WITNESS: I am sorry.

THE COURT: It is okay, go ahead.

THE WITNESS: We didn't know what was going on until the court came and got us and we were brought back and all this time he was holding us against our will and, I am sorry, I [1237] am really a fast talker—holding us against our will and that was what was going on, but we didn't know about it.

My father wanted us back. She never gave him permission and at the beginning of the marriage I remember him

coming to our first house that we lived in and actually being in the house visiting with us but he was not allowed any further than the door for fear that my mom had because she wanted us to have the right to see him, you know, but after that, after he threatened to shoot her we didn't even want to see him. We were really afraid of him.

Q Were you afraid? Did you think it would change your relationship with him in any way?

A Oh, yeah, I figured that if he knew that I was pregnant it was just going to be a matter of, you know, you are just a slut, that was the biggest thing that sticks in my mind because of all I went through recently with that living together situation and I felt that is what he was going to say. I thought the relationship would be over, whatever little we had, it was going to be over for sure if he found out.

Q Did you ultimately decide to go to court to avoid telling your dad?

A Yes, I did.

Q Let me ask you one thing, if you had had to tell your father how would that have affected your abortion decision?

A I would have carried it to full term.

[1238] Q It was that important to you?

A Yes, I would have carried it to full term if it would have been something, if there was no other option I would have, just to avoid that fear because I just—I am really terrified of him.

Q At the time you decided to go to court to avoid telling your father, did you and your mom talk to a private lawyer?

A Yes, we did.

Q What was it like when you went to court, can you remember how long you had to wait?

A Well, I think that from the time that we saw our lawyer until the time we got the court date it seems like it was five days, three to five days, and we didn't even have the judge we were supposed to have and the aroma when we walked in the room, the way—I thought he was a really prejudiced judge, I called him "Prejudiced Plunkett" because that is exactly what I thought of him.

I walked in the room, he treated me like an infant when he questioned me, it was repeated questions, you know, it was really stressful and I went through, you know, trying to get into the court for a week and I was just really stressed out and he was asking me questions that, you know, were just—I considered him making his decision before I even walked in.

I felt his personal views and it scared me when I realized who the judge was. I go to school with his son and I am in school with his son.

[1239] Q So you were worried?

A I was wondering how far it was going to get.

Q You were worried that his son would learn that you were in court about this matter?

A Yeah, uh-huh, and was really stressed. That brought a lot more stress out knowing it could possibly, you know, get around school.

I wasn't embarrassed about it, I didn't think that I needed to go through this kind of hassle for the simple fact it is clearcut that my father would have just, if he would have found out, I suppose—

Q Also were you pretty involved with a lot of activities relating to your church at the time? Was that somewhere near the time when you were confirmed?

A Oh, yeah, I was confirmed a week later and he walked in with his son for confirmation, he was his sponsor, and he looked at me and I looked at his son and I was wondering exactly what goes on around the family table at night and it worried me but I was confirmed right after that and I could see him looking at me, going, you know, wondering if I was still pregnant or how I could get confirmed considering I was seeking an abortion. I knew this was going through his head because he was a Catholic and my mom was.

Q What do you think would have happened if somehow his son had learned about this and that got out in your circle of [1240] friends connected with the church?

A It would have been—I would have probably—I know for one thing I went to a strict Catholic school all twelve years and I would have been out. I would have been out of the school I know for sure. It was run by nuns and fathers and I would

never have been allowed in there if they would have found out and it would have gotten around, it would have, you know, how fast things spread in high school.

Q Did you have to wait for the judge's decision?

A Yes, we waited three days I believe for the decision but we knew what it was before it ever came back. We did, you know.

Q How did you feel while you were waiting for the decision?

A It was terrible, I was sick, I was up all night wondering what I was going to do and—

THE COURT: He didn't sign it right at the hearing?

THE WITNESS: No.

BY MS. PINE:

Q How did you know what he was going to do?

A I knew—if you would have been there you would have known; he was really prejudiced. When I walked in you could see anti-abortion written all over his face.

Q What did he decide?

A He decided that I couldn't have it without my father's consent.

[1241] Q So he denied the petition?

A So he denied the petition.

Q Did your lawyer then explain to you that you had a right to appeal?

A Yes, he did and we felt that with his attitude toward it and as long as he waited that it was going to be the same.

Q So that made you feel like you didn't trust the appeal process?

A Yeah.

THE COURT: Wait a minute, you are both talking at the same time; you have to wait until she is through.

BY MS. PINE:

Q So you didn't feel like you trusted that you would get a fair hearing on appeal?

A No. I felt there was no fair hearing.

Q That is the way you felt.

Were you also worried about time?

A Yes, because it was—it seems to me like I had one week before the first trimester was over and so that was a lot of stress too, I mean.

Q What did you and your mom decide to do?

A We ended up going to Mason City, that is what I decided to do; we ended up going to Mason City which was two days in Mason City, Iowa, excuse me, which was two days, and it was probably \$200 more.

[1247] * * *

BY MR. ACKERBERG:

Q So the judge asked one question, the judge asked you what made you think you were mature enough to make that decision?

A That is kind of how he worded it.

Q Was there another question he asked?

A There was lots of them and I really cannot recall them, I am sorry.

Q What did your lawyer tell you about appealing Judge Plunkett's denial of your petition?

A From what I can remember that I had the right to appeal, just that I had the right to appeal, which would be—I have no idea, I think that I had the right to appeal which would mean that I would go through the process again. I am not sure.

MS. PINE: Just what you remember.

THE WITNESS: Yeah.

BY MR. ACKERBERG:

Q Your lawyer advised you not to appeal?

A No, he didn't advise us that; that was my decision. That was my parents' and mine.

Q Why did you decide not to appeal?

A It was because he was totally prejudiced and I didn't think if I ever appealed to him he would change his mind.

Q What was your understanding about who would hear the appeal?

[1248] A I assumed, I guessed that he would again because at that time there was two juvenile judges and one of them had been out of town; that is why I didn't have him the first time and he was going to be out of town for some time, for some period of time.

Q Were you advised that you had an opportunity to submit your petition to another court?

A I don't remember.

Q What is the name—what was the name of your lawyer who represented you at the hearing?

A Mr. Donald Rysavy, I believe it is Donald.

Q Do you know how to spell his last name?

THE COURT: R-y-s-a-v-y, maybe?

THE WITNESS: Maybe.

BY MR. ACKERBERG:

Q Do you know what the basis of the judge's decision was, do you know if the judge determined that you were not mature enough to consent to the abortion?

A That I never found out. I don't remember ever finding out why I was denied. I don't remember finding out. I don't remember the reason why I was denied. I can't believe it was because of my maturity level, but I can't remember the reason why it was denied.

Q Did you at one time know or did you at one time know what the reason was for the denial?

[1249] A I am sure I did at one time.

Q How many days was it your testimony that you found out, about three days later?

A Uh-huh.

Q After the hearing that it had been denied?

A Uh-huh, yes.

Q That would have been approximately October 6?

A Yes, I think, I would say—

Q When did you make arrangements to go to Mason City, Iowa to terminate your pregnancy?

A I believe we had to look for a place that it could be done without having my father's consent which I think took about a

week and that is when we found Mason City and we made an appointment immediately.

I don't know if I should say this but for the simple fact that I was far along, but now that it was even going to cost more money if I waited any longer.

Q Well, do you know how much along you were at the time of the hearing?

A Seven to eight weeks, I believe.

Q And two weeks later you had the procedure in Mason City?

A After the hearing?

Q Yeah.

A I am trying to remember. It is really hard, I want to say like around the 20th or the 21st.

TRIAL TESTIMONY EXCERPTS OF S. L.,
MOTHER OF MINOR

[DIRECT BY MS. PINE]

[1253] * * *

Q And what was your daughter's relationship like with her stepfather?

A It was a close relationship, they were able to talk and they got along good.

* * * * *

Q Where did your ex-husband live at the time of her pregnancy?

A Oklahoma City, Oklahoma.

Q And in the years between the divorce and the time of her pregnancy how often did your daughter see your ex-husband?

A About five times.

Q And did she speak to him any more on the phone? How often did she speak to him on the phone?

A She visited him twice and spoke to him on the phone probably five times in that eight years.

Q Okay. How often were you in contact with your ex-husband at that time?

A No more than I had to be. I suppose there were four or [1254] five incidents of harrassment that he did, and which I was in contact with him by phone most of the time.

Q Maybe you could describe the incidents for us?

A Okay. The first summer we were divorced, in August of '73, the next summer he came up with a brand-new wife that was three years older than our oldest daughter. He took the two youngest daughters back with him and wanted to keep them the entire summer, which was fine with them and fine with me.

At the end of the summer when it was time to return them he refused to return them. He wanted to keep them. So after trying to talk to them on the phone and convince him to send them back he still wouldn't do it so I contacted my attorney and we got a writ of habeas corpus and within two days I had them back.

Q Uh-huh.

A The next summer while I was working he called me on the phone and he was in Austin and he told me he was going to come out and shoot me; he knew where I worked and he was going to take the four kids and take them back to Oklahoma and I would never see them again because I was an unfit mother.

Also that first summer our 16-year-old took the divorce very badly and she attempted to take an overdose of drugs in order to get some attention from her father and while she was in the hospital he called her and told her that the reason she took—did all of this was because she had an unfit mother and not a decent home life, et cetera, and wanted her to come down and stay with him a few days or for a couple [1255] of weeks. She agreed to do this and I agreed for her to miss a couple of weeks of school and go down and see him and see if they couldn't get their relationship back together again.

She went down there and during the course of the four days she was there she was kept locked in a bedroom at all times. She had a close friend down there who came to visit her and that close friend, I tried during that four days to get ahold of my daughter and could not reach her. I was told she was out or shopping or whatever and was not around.

Her close friend went over and saw her one day and found she was locked in the bedroom and my daughter was in hysterics wanting to get out of there and told her best friend to please contact me to send her some money so she could leave. If I didn't send the money she was going to leave one way or the other and would rather come home, have a decent way of getting home rather than hitchhiking.

I wired the money to her best friend and in the middle of the night she stole away from the house and got on the first bus she could find and started coming to Minnesota.

During the course of the whole time she was on the bus she was terrified because there was one time when they crossed the Oklahoma border they were stopped by the police and she thought for sure he had found out she was missing and was after her but it was for somebody else.

After she got home I received a phone call from him and the language and the abusiveness on the phone, the things [1256] he was going to do to both me and her was just horrible. I finally hung up on him.

Q Can you describe a little bit about what your relationship was like with him when you were married to him?

A He was a very domineering man, a very military-minded man. He spent 22 years in the military. I was a very dependent wife. I had lived in Austin most of my life and had left the town—my dad died when I was very young so I had really no male relationship to deal with. When I got married I was very much in love and I wanted to do everything to please my husband. I had children right away from the time I was 18 until 26 I had four of them. He told me what to wear, what meals to fix, whether I could go somewhere and when I couldn't go somewhere, I learned to live with that. The children became the same way.

Q Was he abusive to you in any way?

A The only way he was abusive to me verbally, he slapped me only once in the years we were married and that is when I called him an SOB so he did slap me across the mouth but otherwise he was not physically abusive to me but verbally.

I was called a no-good bitch and a fat bitch so often after a while I began to believe it. I became, "no identity" at all.

Q What sort of precipitated the divorce?

A Well, he for the last six years of the marriage had been [1257] drinking quite heavily, was a real bad alcoholic, his health was going down the tubes. There was even a period of about three months when I decided I would join him in this. I loved him; I wanted to keep the marriage together. I did not want to break up this family. I was terrified to raise four children alone, that was probably half of it. So I attempted to kind of join him for three months and see. I couldn't handle that. I figured that the children had to have at least one solid parent. So I don't know, it was just one night in Oklahoma City he made one of his nasty comments and I said you can have your divorce. There was also many women and it was getting to the point where they were coming to the home and they were having their affairs there.

I had no control over anything. It was just a bad atmosphere and a bad influence on the children.

Q Was it a contested divorce or you ultimately agreed?

A No, it wasn't. There was no contest. He wanted the divorce and I finally gave it to him.

I had had it and he did want to have the children very badly so he did several things within the next three months in Oklahoma, I had to wait three months before I could leave the state with the kids, and he did a couple of things in those three months in order to try to drive me insane because he wanted the children very badly and he told his attorney that is what he was going to try to do. I hear him [1258] on the phone telling him that.

Q In the years between the divorce and the time of your daughter's pregnancy you said you only spoke to him or saw him a handful of times relating to these harassment incidents that you talked about?

A That's right.

Q How would you characterize your relationship with him?

A No good at all. He was very verbally abusive. He wanted to harm me, he wanted the children in any way he could get them. The one time he was going to shoot me I had to take the four children and take them to a friend's home and leave them there for three days while he was in town but I had to be at my

parental home in order to talk to him. If he wanted to talk I did have a policeman there with me because the man does own guns. Twice during the last six years of our marriage when he was in a drunken stupor he put a .45 Magnum (sic) to my head and was going to blow my head off. So I knew he was capable of it and I had no qualms he would do it. He wanted me dead.

He told my attorney I was dead and just killing me was a matter of just finishing it.

* * * * *

[1265] * * *

Q Uh-huh.

A Because when we actually had the abortion she was very close to 12 weeks, we could not have waited any more time—

Q Uh-huh.

A —you know, because there would have been much more of a procedure, and—

Q Uh-huh.

A —and I felt that if that was her decision I wanted to have it as safe and easy for her as possible.

Q Uh-huh. Could you describe how long did you wait when you went through the courthouse with your lawyer for the court bypass procedure to avoid notifying your ex-husband?

How long did you wait around the courthouse and can you describe what you were feeling while you were waiting?

A I suppose we had about a 15 or 20-minute wait. I was angry, I was very angry that we had to be there. I thought to some degree we had been violated. I didn't know why we had to go into court and ask for this, her father not to be notified when for the last eight years he had such little contact with her and never called her, never knew what was going on with her everyday life, and I really felt we were not going to get a fair judgment out of the judge that we were seeing.

Q What were your feelings about going before a judge who you knew personally in the community you were in?

[1266] A I was scared, apprehensive; I thought perhaps, you know, something might—he might say something to his son or something and it might get into the school.

If the school would have found out what K. had done, what K. had done, I am sure she would have been kicked out. In fact I am positive she would have been.

She was getting an excellent education there and I just felt that her education would have gone down the tubes.

Q Can you describe what happened when you went to the courtroom, what your first impressions were?

A The judge was very aggressive with his questions. I don't remember totally all of the questions, there was many of them on why I felt she was mature. He asked K. why she felt she was mature. We went over and over again the incidents that my ex-husband did. He was just very aggressive and—I just did not get a real comfortable feeling. I felt he had basically made his decision before he walked in there. He many times asked her, "You are Catholic, you are doing this and you are Catholic," I mean—

Q Was there anything else that was asked or anything else that was said that made you have that feeling, that it was set against you?

A No, I can't think of anything right now.

Q How long did—let me ask you one other question about this; do you think that her father could have added anything to [1267] the decisionmaking process?

A He would have made her—have made her carry the baby to term and raise the child. I don't think he could have added anything. I don't think he had any right to, really.

Q If you had been forced to notify him what do you think the decision would have been? What do you think?

A We would not have notified him. She would have had the child. We would not have notified him, there would have been no way, no way.

Q How long did you, to the best of your recollection, how long did you wait for a decision from the judge?

A We went into court on a Thursday, I believe it was the 8th. I do have the report here, and if I remember right it is dated the 9th, which is a Friday.

My attorney didn't call me until Tuesday afternoon which was the 13th and he said he had just heard from the judge then. My attorney knew how desperate we were waiting for this

answer so the only thing I can come up with is that it must have been mailed because that is when I heard the first time, five full days with the weekend, it was five excruciatingly horrible days.

* * * * *

TRIAL TESTIMONY EXCERPTS OF JUDGE GEORGE PETERSEN,
JUVENILE COURT JUDGE OF RAMSEY COUNTY

[DIRECT BY MR. PENTELOVITCH]

[CROSS BY MR. ACKERBERG]

[1285] * * *

Q Do you know approximately or can you estimate approximately how many hearings you have held under the parental notification statute since it went into effect in August of '81?

I am just limiting to cases you have personally heard.

* * * * *

A Right around 700.

Q Now of those 700 cases do you have a recollection as to how [1286] many if any of the petitions you have denied?

A I have denied one.

Q And do you recall the circumstances surrounding that particular case?

A Yes.

Q What were they?

A The young woman came into the juvenile center accompanied by her boyfriend, the father, as many young women do. There are many of them that come with their partner. This particular fellow, however, was apparently being very forceful about this woman having an abortion. She did not want it but she was fearful and I felt that rather than just send her away and have her bear the brunt of the man's pressure, that it would be better for all concerned if the court took the responsibility, he could blame the court rather than her for the denial.

So I simply executed an order denying the request.

Q Do you recall whether this young woman had received counseling prior to coming to court?

A I cannot recall. I can only respond to you that I am confident that she did.

Q Okay. Well, have you required—you require counseling of the minors before they enter into the judicial process at that point, is that correct?

A I do.

Q Have you required that ever since August of 1981?

[1287] A There was a time when I expected it and it seemed to be happening and then there was a period of time when it was not happening, we were getting the message instead from these young women that they were told to come to court first and then come to the clinic, where they would receive their counseling and their information and be prepared to go right ahead with it immediately.

I guess the thought was that maybe they could save themselves an extra trip or they could save some time. There was a period of time when I became aware of the fact that they were not getting their counseling before coming to court.

Q And when you became aware of that did you take any steps to change that situation?

A Yes.

Q What were those steps?

A First of all, I tried talking with the individual clinics, telling them that this was our situation, I didn't like that. I felt it was neither the job of the attorney nor the job of the guardian ad litem to do that kind of counseling, to explain the options to them, to describe a procedure that would be used. I talked to them on the telephone; I would tell them that I wanted to have that done before the young women came to court.

It didn't have a lasting effect uniformly on all of the agencies so I wrote a letter.

[1288] Q If you would look at Exhibit 20, is that the letter which you wrote at that time?

A Yes.

Q And in that letter you indicated that you would hear cases where the clinics had not engaged in counseling, is that correct?

A That is correct.

Q And that you—

A Excuse me, let me interrupt; not just the clinics engage in counseling, I think you look at the second page, I talk in terms of—yes, the third full paragraph, "Prior counseling by some trained or experienced professional will be required." So I wasn't requiring that counseling be provided just by that clinic to which the girl was going, but there had to be counseling.

Q From the source?

A Yes.

Q And according to the letter this is something that you and Judge Oleisky had discussed and agreed would be the policy in both counties?

A Yes.

[1291] * * *

Q Now have the procedures which have been described in Exhibit 18 changed in any respect since the law went into effect?

A I don't know how many minors are coming to us through the child protection intake phone number.

In four and a half years I would guess all of the clinics and the agencies and hospitals and everybody knows the process to call the public defender so they may call the public defender immediately. I know that the public defenders still take turns being available on a beeper 24 hours a day.

* * * * *

[1292] Q What is her name?

A That is Charlotte O'Connell.

On page 2, under No. 4, court scheduling, you will see under paragraph 1(a) hearings will be scheduled during court hours Monday through Friday whenever possible.

In that respect they have changed now where the hearings are held Monday and Wednesday. It is still the case that I would hear a matter whenever it needed to be heard, it is just that we have a schedule we try to stick to now.

Q Can you think of any situations where you have heard cases outside of the Monday-Wednesday schedule since you have implemented it earlier in 1985?

A No. No, and there has never been a request for a hearing outside of business hours.

* * * * *

[1293] Q That is a letter that you sent to Senator Waldorf, is that correct?

A That is correct.

Q You provided him certain information about the way you had been handling—or cases had been handed in your court under the parental notification law, is that correct?

A I believe that is part of the letter, yes.

Q Now you mentioned in there that the average time required for hearing is about 20 minutes. Is that still true?

A That is still true, although it may be a little shorter in a lot of cases.

I think as the attorneys who handle the matters have grown more familiar with the process may be shortening it up now, but at least ten minutes, no shorter than that, 10 to 20.

Q Now on the second page of the letter you talk about some statistical information. You indicate that you had not found any of the 13, 14 or 15-year-olds who appear before you to be mature, that 95 percent or more of the 17-year-olds you find to be mature, and that you were able to give them an estimate or you only were able to give a best estimate of about 15 percent of the 16-year-olds were found mature.

You have not kept statistics in detail for the entire time period since the day of this letter, is that correct?

A That is correct.

[1294] Q Do you have, based just on your recollection, and impressions, have the statistics changed significantly? In other words, have you found any 13-14 or 15-year olds mature at all?

A I seriously doubt it. I certainly can't recall that I have.

Q What about 16-year-olds; is it still true that you are finding the majority of them not to be mature?

A I still find the majority of 16-year-olds not to be mature.

Q Is it still true that you find the vast majority of the 17-year-olds to be mature?

A Yes.

Q Could you—the statute does not define maturity, is that correct?

A That certainly is correct.

Q What standards or criteria do you apply in determining if somebody meets the maturity standard of the statute?

A I look at the young women; of course the same as I look at a witness who testifies, and I am trying to determine credibility for instance I am concerned about the manner in which the young woman is testifying, how she conducts herself on the witness stand, how she talks. More importantly, I am concerned with what it is she says. I am concerned about if she is in school, how well she is doing in school, what her plans are after school, her career plans or college plans. I am interested in knowing what kind of thought she has given to what she wants to [1295] do, how realistic her goals are, if you will.

I am interested in knowing if she is employed and if she is employed how long she has been employed, what she does with the money she earns, is she saving it for college or is she putting part of it away, is she helping to buy her clothes.

I am interested in knowing if she has a driver's license and if she has a driver's license does she have the use of the family car; is she trusted with the family car. Does she help pay for gasoline, insurance; what kind of community activities is she involved in, what kind of extra-curricular activities is she involved in, is this a person assuming some responsibility outside of herself, volunteer activities in the church, babysitting at a nursery school for church or doing candystriper work or nursing home visitation.

Part of the judgment about maturity is the thought that she has given to the reason why she is in court with me; the people she has talked to, a reflection of the concern that she has about getting information and other people's input in making her decision. Those are the types of things I am listening for.

At the same time I am listening to the manner in which she is testifying, both the substance and the manner.

Q Now the statute refers to mature and able to give informed consent. Do you equate those two?

[1296] A Yes.

Q Now the remainder of the minors are the minors whom you have not found mature with the exception of the young woman we have discussed, you have found best interest, is that correct?

A That is correct.

Q In your letter to Senator Waldorf you say you interpret best interest as not the best interest to have the abortion, but best interest to require that not—to not have her parent notified?

A Absolutely. I make no judgment as to whether it is in the best interest of the young woman to get an abortion.

[1306] * * *

BY MR. ACKERBERG:

Q Is the court prepared to hold hearings outside of the regularly-scheduled hours?

A Yes.

Q Under what circumstances?

A Where it is advised that she cannot wait until the next scheduled court hearing. I assume that the girl would tell us that the clinic advised them that that would be the case.

Q For whatever reason?

A For whatever reason.

[1307] * * *

Q When minors came into court, what generally is their demeanor?

A Normal.

[1308] Q Are they distraught?

A No.

Q Are they crying?

A No. I hardly have ever seen a young woman cry. I only remember a couple who have demonstrated that kind of emotion.

Q What kind of attitude do you attempt to take in your dealings with the minors when they appear in court?

A I think any youngster coming into court is nervous, regardless of the reason why he or she is coming to court. My main concern at the outset is to make them feel at ease and that they can trust the environment they are in.

Q How do you do that?

A I greet them, smile, make my opening remarks as explanatory as I can about why we are there, what the process is, what I am doing. I have a regular litany, I put myself on autopilot

and it comes out just about the same everytime explaining my record.

* * * * *

[1311] * * *

BY MR. PENTELOVITCH:

Q Judge Petersen, you related to me an incident where we spoke the other day, a minor came before you last week with both parents?

A Yes.

Q Would you describe the incident to the Court?

A Sure. The young woman came to court for the hearing that had been scheduled and the attorney and guardian ad litem came in and said to me, judge, this girl came in with both parents, mother and father are with her and I said are they her biological mother and father and they said yes. I said do they know why she is here and they said yes and I said why is she here—because one of the parents will not sign an acknowledgment of receiving notice.

I was upset because I thought it was the facility, clinic or the hospital whichever it was, that should have employed the service provision of the statute, simply service [1312] of a notice upon them, personally with an affidavit, and you could avoid the signature on the certified mail receipt for the notice that was sent.

But we will just take care of it. So I said, have the parents come up and we will all go into the hearing room together.

I asked my court reporter to type up a notice real quick, so I dictated over her shoulder a notice addressed to so and so and so on and so forth, the parents of the above-named minor, you are hereby notified that your daughter is scheduled for an abortion hearing at her request at such and such a time.

Q An abortion hearing or procedure?

A I am sorry, an abortion procedure. Operation, the operative word was operation, abortion operation, that is the word the statute uses, at such and such a place, here is the phone number to call if you need directions, and I signed my name to it.

I made two copies. I went into the courtroom, I asked my clerk to make up two affidavits of service for me to sign. She did. So I went in the courtroom and I handed each of the parents a notice of the abortion operation and then I filled out the affidavit of service as to each one of them. My court reporter notarized it and I had copies made for my files, gave the originals of the notice to the minor so she could [1313] take it with her to the clinic or the hospital as authority for them to go ahead.

As it turned out this was a case where it was going to be a two-day procedure so it was a case—then afterwards, the parents in the courtroom, the parents seemed pleased that they had been included in the proceedings. They found it hard to believe that it was the first time two parents had ever shown up and they said on the record we don't consent to this, judge, but we love our daughter so they wanted me to provide the authority rather than them being put in a position of seeming to consent to it.

Q And they had the impression that was required of them was consent, not merely being notified?

A I think that is absolutely true, that they were confused that their signing meant they were going to consent to something they didn't want to consent to.

Q And this was somebody who—a young woman who had apparently told her parents freely that she wanted an abortion and it was a situation where there was some confusion on their part as to how they had to go about it, is that right?

A Yes, sir.

* * * *

TRIAL TESTIMONY EXCERPTS OF JUDGE PAUL GARRITY,
SUPERIOR COURT JUDGE IN MASSACHUSETTS

[DIRECT BY MS. BENSHOOF]

[1318] Q Which?

A If I may refer to what you gave me, just as I came in the courtroom, it is General Laws Chapter 112, Section 12(s).

Q And is that a notification statute or a consent statute?

A It is a consent statute.

Q Is it a one-person or two-person consent statute for minors?

A Both parents are required to consent unless one parent is unavailable or if the parents are divorced or separated, then one parent is sufficient.

Q Do you know—is that currently implemented in Massachusetts?

A Yes, it is. Most of the so-called 12(s) petitions that I heard both parents were available to be consulted but the young woman, the girl, decided not to do it. On rare occasions there would be both parents who would be available and in some of those occasions the parent that was the one parent would come in to the lobby with me when I would be hearing a 12(s) petition with the young woman.

Q Let's step back one minute.

If a minor chooses not to get her parents' consent or cannot get her parents' consent is there a court bypass procedure provided for in the statute?

A I am not familiar with the jargon, but basically what happens is you have to get the approval of a superior court [1319] judge as opposed to other departments of the general trial courts, say the domestic relations, family court.

Q On what grounds can a superior court judge grant approval?

A That the young woman is sufficiently mature to make up her own mind to get an abortion or if the judge determines that she is not, the judge would have to determine that it would be in her best interest to do so.

* * * *

[1320] * * *

Q And did you hear petitions under this statute in Massachusetts?

A Yes, I did.

* * * *

[1321] * * *

Q About how many minor petitions did you hear of the Massachusetts statute since 1980?

A I have given that some thought. Over 100 and probably less than 200 or almost 200.

* * * * *

[1322] Q Do you have any opinion as to the reasons why there were so few judges hearing these petitions?

A Yes. My sense was and is that judges were disinclined to hear them on religious grounds, on moral grounds, and what has also been unfathomable to me, although we don't elect judges in Massachusetts, on political grounds.

Q Do you have any restrictions on the kind of petitions that you would hear from teenagers?

A Me, personally?

Q Yes, you, personally.

A I just had a—I am personally opposed to abortion, I just don't like it, and it is a moral gut sense, and I didn't hear cases where the young woman was more than three months pregnant and I let that information out early out. So they weren't sent in to me. It would have been pretty bad had they come in and then I would have gotten to hear the case and I determined that the young woman was three and a half months pregnant, I couldn't deal with it and it was very—tough enough for her to come in before me.

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[1324] * * *

Q The statute says you are to make a determination as to whether she is mature and capable of giving informed consent. How did you define that phrase and did you define mature and [1325] capable of giving informed consent as two distinct concepts?

A I don't think I did.

Q You don't think you defined them?

A As two different concepts, no. What I did, I asked four or five or a dozen questions, depending on how nervous the young woman was, to put her at ease. I guess I would call them

throwaway questions and then I would get into the other questions of has she thought about this, why does she want an abortion, has she considered the alternatives, and in every case I determined that the young woman was mature.

Q So you in some 200 cases you heard you found maturity in every instance?

A There was never any question, it wasn't even a close call.

Q And you never reached the best interest standard?

A Never did.

Q And you equated maturity with capable of giving informed consent?

A Knowing what she was doing, that is my Boston way of putting it, and why she was doing it.

Q What age range of minors did you see?

A I know I had a bunch as young as 13. I might have had a couple at 12 and the ones who were that young were just as mature as the ones who were older. I think I, by the time they came, they were scared stiff and it was traumatic, but they knew [1326] what they wanted to do and I might have personally disagreed because of my own moral feelings about them, about the issue as to why I might have thought, gee, I don't think that is a good reason in my own mind, but it was an objectively good reason and articulated in a very mature way in my experience.

Q So despite the fact that you might disagree with abortion in general you found them capable of making that decision?

A Yes.

Q Describe the demeanor of the minors who came before you?

A Most of them were scared to death and I used to think about it; I didn't think about it that much, but I used to think about it and it is tough enough being 13, 14, 15, being pregnant and not wanting to tell your family because your family situation would blow up in your face if you told them, and then coming in before a middle-aged white male, and I think that to a great extent I was from a similar, the same background as many of these young women, but I am not anymore in terms of, you know, the class perspectives, and they were really scared.

They really were. I would ask them why didn't you tell, why don't you want to tell your parents and the responses would be

I am afraid to, they won't understand, I will never be able to live at home again, they won't let me get an abortion. It was all over the place. I am sorry, go ahead.

Q You were listing the reasons why they did not want to tell [1327] their parents.

Were they ever accompanied by another parent?

A On rare occasion there would be one parent, typically the mother, who would come in with the young woman and in those instances, and I have a vague memory of the mother volunteering on a few occasions that if the father found out there would be the devil to pay at home.

Q Did you believe her?

A Sure.

Q You testified when you observed the demeanor of the minors before you, that you had thought about it. Does that mean outside of the time that you were hearing these petitions you thought about their attitudes and demeanor?

A Yeah. I didn't give much thought to it but I did think about it and if a youngster was especially nervous on a particular day I would think to myself, you know, what did I do to cause that, which I might have done, I might have got up on the wrong side of the bed and just been a little bit short and abrupt and not have spent enough time with the youngster calming her down. But it was, you know, I hope I don't sound—I didn't lose sleep over it, I hope I am not sounding callous, but it did occur to me and I did reflect on how nervous these kids were.

Q Did you feel a legal procedure was traumatic and had this effect on them?

[1328] A Absolutely. You know, it was just—it was just another thing at a very, very difficult time in their lives.

Q Did you ever see any minors who had first approached their parents but couldn't have parental consent or were these minors who came because they didn't want to make the initial contact in the first place?

A I can't recall of a minor who had approached a parent and didn't get consent. There may have been but I can't recall any.

Q So in the minor's mind why they wanted to go to court was so they didn't have to tell the parents in the first place?

A That is correct.

Q Do you have any opinion as to what the law is accomplishing in Massachusetts?

A It just gives these kids a rough time. I can't think it accomplishes a darn thing. I think it basically erects another barrier to abortion and if abortion is legal, it doesn't seem to me to make any sense to go through this barrier which my sense is. I could be dead wrong, but my sense is that it has to be calculated to throw that barrier up.

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TRIAL TESTIMONY EXCERPTS OF DR. STEVEN BUTZER, PSYCHIATRIST AT ST. PAUL RAMSEY MEDICAL CENTER

[DIRECT BY MS. PINE]

[CROSS BY MR. GALUS]

[1337] * * *

Q Going back to your clinical experience, you have been essentially a full-time clinician for the past eleven years, is that correct?

A Not really. I have worn several hats during this career and as one of them I am still an academician, I am a full-time faculty member in the department of psychiatry at the University of Minnesota. I am an assistant professor rank, although I believe that will be changed at the end of this academic year to the college faculty. The other part of it is I have been [1338] involved in administrative roles in the Ramsey County Medical Center and Ramsey Clinic and as part of that have been involved in the design or management of treatment programs sometimes centering around adolescents.

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[1341] * * *

THE COURT: You are going too fast for me and I know you are going too fast for Mr. Lindberg. You talk awfully fast and you have got 50 percent females had sexual intercourse in their 15th year, that is what your first number was?

THE WITNESS: That is correct.

THE COURT: And boys?

THE WITNESS: By their 15th birthday.

* * * * *

[1342] Q Judging from your clinical experience, from your experience with adolescents in treatment with you who are making reproductive choices, how capable would you say adolescents are with dealing with those decisions?

A I think capability gets us into two kinds of worlds; one is the capacity to make the judgment and the other is the competency to make the judgment. On both counts it is my belief that they believe they are both capable and competent to make the judgment.

Q Can you give any examples of the types or choices that are being made, and in choosing your examples, can you elaborate on your sense of competency capability in this area, from your clinical experience?

[1343] A Well, the patients I have dealt with are a full range of individuals so their attitudes and their values reflect pretty much a cross section of our society. I have had individuals as adolescents struggling over decision about the degree of sexual activity within a relationship, even being concerned enough to say how much kissing or petting they might engage in. I have had some individuals who were quite concerned about making an appropriate choice about the person that they chose to become sexually active with under the definition of sexual intercourse and seeking input or advice about that or in general thinking about the ramifications of it, both positive and negative.

Others are perhaps considered to be significant level decisions, but it is common practice dealing with adolescents to deal with abortion, certainly birth control; I have dealt with some individuals who have kept pregnancies to term and then struggled with decisions about keeping the infant or putting the infant up for adoption and one rather notable case in my memory dealing with an individual who put an infant up for adoption and then was struggling with the decision to pursue

acquiring parental rights again afterwards and so it is really a full range.

Q And without giving a theoretical definition, how would you articulate your clinical experience that they are making these decisions and grappling with these issues in a competent [1344] way?

A Well, they fulfill the underpinnings of the competency type assessment. They want to know what the range of options are, they usually have a very good understanding of that. They are looking at the consequences of those options and they are using a personal value system or set of facts to make the judgment.

When they are doing it with someone like me they are usually doing it because it caused them some anxiety or distress or it has been a particular reason for referral.

Q Let me backtrack for just a second back to your summary of trends in the counties surrounding the Twin Cities. You have talked about the age going up. Do you know where the age is now; how far up it is?

A Well, we measure it in terms of a year or months of a year depending on who is doing the research and from its low point several years ago it has drifted perhaps a quarter of a year for both sexes toward the upward side.

There is no way to know where that will go or how far, it is not likely to exceed what was perhaps a normal level, say, 12 or 15 years ago.

Q Which was what?

A At a point, that 50 percent point, the highest point since they have been doing the research early in the 50s has been at point around 17th birthday for girls about the 16th birthday [1345] for boys so it is about a year's variation or a year and a half at the most.

Q As a therapist what approach do you take when a patient who is a minor is grappling with a reproductive decision?

A Well, the approach is really to try to have them feel in control of the decision and reach the decision based upon their sense of what their options are and what their competence, or rather their understanding is of it.

Each individual comes in with their value system and their belief system, their social network, and the job of the counselor or the psychiatrist whoever is providing that service is to help them work that through so that they have a good understanding of what they have chosen and why they have chosen it.

They sometimes use us simply to reflect that, they bounce things off of us and sometimes they use us to answer questions. Sometimes they want to use the accumulated experience that the therapist has to ask about outcomes.

I think an interesting product of that is that most of them perceive us to have the same values that they have because of that process. They don't really understand what we are as people underneath it because of that reflectivity attitude or reflective process. They will often come back later and have a belief that I was one thing or another because that is the way they ended up with their decision.

* * *

[1353] * * *

Q Are you familiar with Minnesota Statute Section 144.343?

A Yes, I am.

Q And are you familiar with the statute's requirement that minors notify their parents or alternatively obtain a judicial waiver based upon maturity or best interest?

A Yes, I am.

Q Based upon your clinical experience, do you believe that some minors in the State of Minnesota involuntarily tell parents about abortion against their better judgment because they are too frightened to go to court?

A Yes.

Q Can you tell us what the basis of your opinion is?

A I have had a number of cases where adolescents and their parents have shared information that has not been voluntary for one reason or another. I have had some where adolescents have unwittingly left diaries out and parents have acquired information, others where they have been able to get services and a bill for those services has appeared at their parental home.

But more specifically I have had some pregnancy-related issues and a couple of cases recently that have reflected that. In one case I was treating a patient—

Q Let me backtrack one minute.

This is about your basis for your opinion that they are [1354] too frightened about court in particular. Has anything come up in clinical treatment of patients with regard to patients' perceptions about the court process?

A Yes, that has been discussed frequently because—

Q Can you give us the sense or the basis of this?

A When they become aware or if they have become aware that that process is there, they usually find it intimidating or frightening. Some stronger characters are just indignant or angry about it.

Q Parents have actually told you this—

A Yes.

Q —in the course of therapy?

Now can you pick up where I interrupted you and elaborate a little bit about the types of situations which parents find out about adolescents' pregnancy, abortion, sexuality, in some way that is involuntary in the sense that the minor did not share it with the parents deliberately?

A Well, the case that I was describing is that of a single parent family where the mother became a patient of mine because of her knowledge that her daughter was in the process of seeking abortion services. That information was provided by the doctor of the daughter who also was a family practitioner and was the mother's doctor as well. It was his mistaken assumption that the law required him to provide notification and he also perceived himself as being helpful by telling the [1355] mother that the child was facing an abortion decision.

The outfall of that was enormous in terms of conflict and difficulty in the family. That resulted in the mother also notifying the father, who was out of state and who had not maintained much contact with the family but appeared again in a rather punitive and angry role.

The difficulty with it is that the mother, even though working through the decision and ending up allowing her daughter to make the choice, ended up in treatment with me and had said

on a number of occasions that when all is said and done she would rather not have known it was happening, she didn't like the idea and the reason—that would be putting it mildly—she abhors the idea. The problem is that the mother is a member of a very conservative religion, very much opposed to abortion in concept and in practice, and the daughter saw abortion as a strategy and a reasonable way to deal with the problem she was having with her pregnancy.

Without getting into what those values represented, it represented the determination probably of a functional relationship between those two.

Q So you have actually had cases in which parents, mothers have said to you that they would rather not have known?

A In that case specifically, "I would rather not have known." In another case the daughter felt she was compelled to notify the parents; did not understand her options or choices and I [1356] think she was informed by her doctor that she had to do so. She was a patient of mine and still remains a patient of mine and ended up disclosing to her parents the situation she was in and that has created a fallout also of similar magnitude.

Q In that case was there any—was there any effect on the husband and wife's relationship?

A I think it is probably going to rupture the marriage. I doubt if their marriage will survive. The reason is the polarization there is between two points of view. The mother's opinion was again rather polarized towards one direction and the father toward another and they are unable to reconcile that.

They find themselves still fighting over the decision even though it has been made.

Q Have you had other cases in which you have seen some form of involuntary communication about these kind of matters to parents?

You were mentioning earlier about diaries—

A There are lots of ways that that occurs but in general this is information that is given to someone in a period or a state of duress or for reasons other than just simple disclosure and the resulting emotional fallout is usually tremendous. The more typical example is for the parent to come upon a communication, a letter or a diary and realize that their [1357] child is sexu-

ally active or that they have been involved with a birth control decision or an abortion-related decision.

I have had examples where former friends, after having an angry argument or disagreement with the teenager, felt compelled to disclose to their parents something about them in the sexual arena and do so as a retaliatory measure, knowing what the parents' response would be.

Q Do you have an opinion from the entire range of your clinical experience with accidental or coerced in the sense of a doctor making the communication, of the effect of such involuntary communication of matters such as pregnancy or abortion to parents on a family or relationships between adolescents and their parents?

A Yes, I do. In my experience when disclosure is not voluntary it is almost universally negative.

Q That is specifically because it is involuntary?

A I think primarily because it is involuntary and also because of the underlying assumption, it is that the adolescent believes that the knowledge would be shocking or disruptive in the family or to the parents and the parent is usually in a position where they do not want to know the information in the sense that they either disagree with it or they would rather not hear it or they would like it to be otherwise; not wanting to know, it takes different forms of opinion or different layers of control.

* * * * *

[1361] Q Do you have any reason to believe that the effects of involuntary notice which you observed in the two cases you described are unusual in any way?

A Maybe unusual in that they represent part of my practice in one small period of time, but, no, I don't think they are unusual in terms of either the problem involved, the type of disclosure pattern involved, or the consequences.

I am sure there are other clinicians who have exactly the same type of experience.

Q Dr. Butzer, based on your entire range of experience treating teenagers and adults in the State of Minnesota, what is your opinion about the actual and potential effect of the Min-

nesota statute which is the subject of this case on minors making reproductive decisions and their families?

A Well, I have two opinions about it.

On the one hand, I think that the provision is not functional or useful. It does not provide a service or a safety valve or a diversion process that is needed. The individuals making the decisions often are unable to get those kind of services within their community or within the medical setting or, in many cases I think they do it within their own families.

The second thing is that I think that when it is invoked or what it presents itself, it provides a punitive and negative type of response to the individual who has to use it. [1362] On the one hand, they are afraid to disclose to their families and by using the bypass procedure they have to face in their mind an authority figure and I think they see it as a process where they have to justify themselves, have to justify the situation they have been in, and justify the process they have gone through in making a decision. I think to them it is—they see it as a validation kind of effort rather than a consultative or really equal decisionmaking type of format.

Q Do you think it improves the quality of decisionmaking at all?

A No, I don't.

Q Let me ask you one last question, and that is that in such situations where adult involvement might be helpful is it sometimes better, better for the adolescent to get adult input from someone other than the parent?

A I think they are excellent judges of that. I think they seek the attitudes that they can relate to, that they know they will get good information from. They are very responsible about how they do that. If they think that they have not adequately processed the decision, they will often go to someone they have confidence in.

They use teachers, they use religious advisors, they use other people's parents; they use professionals and many of them I suppose will use their parents.

[1375] * * *

BY MR. GALUS

Q Could you indicate a calendar year?

A I think it probably occurred around anywhere from '81 to '83, the period in the early 80s was reflective for a span of time of increased, increased sexual activity and increased drug experimentation and somewhere in that period of time the value system began to change. It is different in different segments of each of the seven-county area.

If you look at the far suburban or rural, if you get out further into Wisconsin or further south in Scott County or north in Chisago County you see a more conservative impact earlier than you do at the urban core. But the trends are the same, it is just the degree or the rate at which they change.

Q Let's think of them in the aggregate if this is possible for you to do; how has the value system in the period '80 to '83 changed?

A The value system seems to be drifting away from a high value on sexual experience or sexual activity to one more of individual decisionmaking or individual choice or individual control. As a consequence there is a renewed, I would say it is probably termed best as a conservative sort of development in [1376] society so that a group now that has a value of about nonuse of chemicals, of nonparticipation in social sex rather than meaningful relationship oriented sex or recreational sex is a phrase that has been used that also applies to the same statistics, are showing a trend in terms of numbers of students completing high school diplomas and it is being shown in terms of voluntary enlistment in the military and it is being shown in terms of voluntary participation in religious and other related activities. It is a general societal trend we are seeing.

Q There is a trend away from recreational sex, that is a trend among the teenage population, a trend away from recreational sex to responsible sex?

A A trend away from recreational sex toward more relationship-based sex in all ages of society.

Q Including teenagers?

A Yes.

Q Well, I thought we were talking about the change in the trend you noticed in the adolescent population in the '80 to '83 period?

A Yes.

Q My questions are intended to be limited to the adolescent sexuality.

A I understand.

Q Okay. Increase in positive attitude toward choices?

[1377] A Yes.

Q That could account for fewer conceptions, couldn't it?

A It could.

Q That could account for a lower abortion rate, couldn't it?

A It could.

Q Have you observed, in reviewing the statistics that are available, any trends in use of contraception among the teenage population in Minnesota?

A There is less generalized information about that so I would be speaking more from a clinical population or perspective and I would say that there is increasing awareness of birth control choices, better planning about it, but still I think less than there should be in terms of that group. But certainly there is more individuals choosing birth control methods, more males, for instance, are choosing to accept responsibility in the sexual relationship than previously.

Q And is your answer with respect to the teenage population?

A Yes.

Q And that would certainly account for fewer conceptions, wouldn't it?

A Yes.

Q That would certainly account for a lower abortion rate, wouldn't it?

A Yes, possibly.

Q A plausible hypothesis, is it not?

[1378] A Absolutely.

Q This change in attitude occurred sometime in the '81 to '83 period to the extent you have been able to observe?

A Yes.

Q You say that teenagers are more aware factually of contraception but still aren't doing as good a job about it that you think they should?

A That is true.

Q Do they do as good a job as an adult?

A Yes, they do.

Q You talked in statistics about the statistics that you became aware of near the end of 1985.

Can you identify those specifically?

A They were accumulated through social service agencies in the St. Croix river valley and I believe they were done through questionnaire research and I am unsure of who actually did it. I am unsure of what their actual sampling techniques were but it was school systems in the Stillwater area south to Hastings, Cottage Grove.

Q Did that study confirm the opinion that you have otherwise come to hold about more conservative attitudes about sex?

A If you look at it in the context of all the information it shows that that group at the time it was sampled was certainly a more conservative group than previous samplings. [1379] So I think you get into methodologic kind of analysis and then that gets into a different criterial arena.

Q You to some extent believe it is meaningful to talk about conservative-liberal attitudes?

A They are generally accepted terms and people usually know what we mean when we use them.

Q When you use those terms with respect to sexual matters do you believe there are conservative and liberal attitudes about abortion?

A Yes.

Q The trends that you have observed among the teenage population in Minnesota concerning conservative attitudes about sex, does that also include a trend toward more conservative attitudes about abortions?

A I think so.

Q That would certainly in your opinion account for a reduction in the abortion rate?

A I think it adds to the deterrent value of the whole array of information. There is also at this time a markedly increased

awareness about sexually-transmitted diseases and I think all of that has had or influenced the decisionmaking of everyone in sexual behavior.

But the conservative attitudinal shift adds to that as one increment or one factor.

Q In your clinical experience have you treated adolescents [1380] who have suffered anxiety or stress or other disorders because of abortion decision?

A Yes.

Q How many?

A It is probably easier to talk about them in two groups. One group, talking about their anxiety in terms of making a decision and their difficulty in weighing the alternatives, those are usually short term and they are usually decision-related types of counseling exposure. They are largely oriented towards the conclusion of the decisionmaking process and the anxiety usually abates afterwards.

So whatever their choices they affirm them and they go forward from there.

Q Let me just focus on that one group for a minute. By short term you mean the problems were trivial?

A I mean short term as applied to the duration of professional contact or treatment.

Q But still serious problems?

A Of course.

Q And still serious enough for you as a professional therapist to be valuable in solving?

A Yes.

Q How about the other group?

A The second group, the second group applies to individuals who have gone through abortion decisionmaking and regardless [1381] of their decision have had either emotional fallout or distress after that either in terms of—we might use two diagnostic categories, one an adjustment disorder which implies a more time-limited or mere event-type of psychiatric disorder, so people who made a decision and then suffered some problems about the emotion related to the decision and sought treatment.

* * *

[1384] * * *

Q In those situations the patient didn't want to initially want to have anything to do with you?

A Absolutely—excuse me, in the whole part of the relationship which was important was that the initial part of the transaction involved was to get them to see that I first was a valuable person, nonthreatening, and had something to offer them. Only when that has been accomplished could I then move to the second part of that equation which was to say now it has been useful or productive.

Q Don't you think parents have those sort of skills too with respect to adolescents whom they have reared and lived with for 14 or 15 years?

A Some parents, yes.

Q So it is not useless, the invocation of parental values [1385] and experience is not always useless if it is not wanted by the adolescent, right?

A No, but it depends on the variables as I mentioned.

* * *

TRIAL TESTIMONY OF J. M., MINOR

[DIRECT BY MS. PINE]

[1417] * * *

Q Okay, J., how old are you now?

A Seventeen.

Q How old were you when you had your abortion?

A I was 15.

THE COURT: You have to talk a little louder, there is just us here in here and he wants to hear you, okay?

BY MS. PINE:

Q Who were you living with at that time?

A My mother.

Q Your parents were divorced?

A Yes, they were.

Q Can you tell us something about what your father was like and what your relationship was like with your father?

A After my parents were divorced my father and I didn't have much of a relationship. I saw him on my birthday and Christmas, various holidays like that and it was never directly on the holiday, it would be like the day after or the week following.

[1418] Q What is your mother's religion?

A She is Catholic.

Q And what are her views on abortion?

A She is pro-life.

Q Did she ever send you to classes at her church on these kind of issues?

A Yes. I was sent to classes in all through ninth grade.

Q And what was the subject of those classes?

A Abortion, pregnancy, it was all pro-life saying that you must preserve the life of children.

Q And when they said that they were referring to abortion?

A Yes.

Q What was your relationship like with your mom before your abortion?

A It was typical mother-daughter relationship. We didn't have too many problems, no more problems than the average mom and daughter have.

Q When you first learned you were pregnant who did you talk to at school?

A The school nurse.

Q Why did you decide to have an abortion?

A Because I thought I was too young.

THE COURT: How old were you, J.; I didn't hear you.

THE WITNESS: Fifteen.

* * * * *

[1420] * * *

Q And then what happened, did the school nurse set up a meeting?

A Yes, she called my mother to come in.

Q So who were you with when you told your mother?

A Well, the school nurse and my mom were in the nurse's office and I walked in and just when I had walked in my mom looked at me and she says, "You are pregnant, aren't you," right away; I am like, well, yeah, I am.

THE COURT: Had the nurse told her?

THE WITNESS: No, the nurse hadn't said anything.

BY MS. PINE:

Q She guessed because you were with the nurse?

A Uh-huh, yeah.

Q Can you tell us what happened at the meeting with the school nurse, exactly, what you told her, what the story was?

A She was hysterical, she was hysterical at first. She hit her fist against the seat and said, "I don't believe this," and started to cry and said, "I can't believe you would do this to me." I had like betrayed some trust in her or something, and it was hard for me to see her do that because it hurt me so much because I knew I was hurting her and it was very difficult to even tell her.

Q Was there any attempt to talk about what to do in that meeting?

[1421] A Well, the nurse had gone over what we could do, told us of a doctor that we could go to and the options that we had and my mother asked what I was going to do and I said, Jeff and I have discussed it and we are going to have an abortion.

Q What did your mom say, do you remember?

A She didn't really say anything at that point. She just kind of swallowed that in because she is against it and I didn't know what to expect from her.

Q After you left the school nurse's office did you and your mom drive home together?

A Yes.

Q Did your mom say anything to you in the car?

A No.

Q Nothing at all?

A Nothing at all.

Q So you drove home in complete silence?

A Uh-huh.

THE COURT: Now your father was gone, your parents were divorced and you were living with your mother, is that the situation you were in?

THE WITNESS: He lives in the same city we do but he is never around or anything.

BY MS. PINE:

Q What happened when you got home, when you got home what was the first thing that happened?

[1422] A We walked into the kitchen, we sat down and mom started to make some lunch. I turned on the TV. She didn't even turn to look at me, she just stopped, she had her hands on the counter like this, her back was toward me and looked up like this and said, "Why can't we keep it?"

Q Did she say anything else to you about the abortion that day?

A Yes, she said, "How can you kill something?"

Q Did she say anything else?

A No, we sat there in silence the rest of the day.

THE COURT: I am sorry?

THE WITNESS: We sat there in silence the rest of the day.

BY MS. PINE:

Q So you and your mother were sitting on the couch in front of the television—

A We were sitting in the kitchen.

Q Sitting in the kitchen?

A Sitting in the kitchen watching TV.

Q Watching TV and the two things you just told us are the only two things she said to you about that?

A Yes.

Q Inside did you—were you wishing that you could talk about it with her?

A Yes. I wanted to say something like, mom, what will help [1423] me, but I was afraid to. I just couldn't.

Q And your mom wasn't able to do anything helpful?

A She could have said something.

Q What did you feel, what did you say when she said the two things you just reported to us?

A I put a lot of thought into it and I did in a sense want to keep the child but how could I, I am too much of a child myself and I think of it that way, just if I am too much of a child how could I actually carry one?

Q So what did you say to your mom?

A I told her that exact same thing: I said, mom, I am too much of a child, I can't carry it, I don't feel responsible enough, and the second thing was almost like a shot through the heart; it hurt so badly.

Q When she said, "You are killing something."?

A Yes, because I fully realized what I was doing and I knew what I was doing and to have her reaffirm it, I know, and to have her just tell me that, it hurt so badly.

Q Did your mother ever bring up the subject of your pregnancy or your abortion in an effort to be supportive from the time—

A No.

Q —from the time she learned about it to the present?

A No.

Q After you told your mom did you still have to go to court?

[1424] A Yes.

Q Can you explain why?

A We couldn't—we both, my mother and I, decided, they told me I had to tell my mom and my dad and my mom thought this was absurd and so did I because my father is not a part of my life; I don't think he is, I see him twice a year. He lives a mile away from me and he calls on occasions, not very often.

He isn't a part of my life, he hasn't been for the past eight years.

Q Did your mom stay with you through the court process?

A No.

Q When you were on your way to the clinic to actually have the procedure done did your mom say anything to you about birth control?

A They had told us before we went to the clinic that they would be giving me a three-month pack of the pill and she told me to refuse it, to not take it.

Q Why did she say that to you?

A She said, "You have learned from your mistakes and you won't do it again, will you?" She was telling me I wasn't going to do it again.

It wasn't my choice as to whether or not.

Q Has the subject of your pregnancy or abortion ever been brought up by your mother in a nonsupportive way since the time [1425] she learned of it?

A Yes, sometimes she threw it back in my face as if like I would say I want to go out, where are you going and I would say, mom, we are only going to a friend's house, she would say what are you going to be doing, I said, mom, it is a bunch of friends; we are not going to be doing anything bad, and she would say no, you have already done that—

Q By that she meant—

A —she meant the abortion, she says you have already done the worst thing possible.

Q Could you give another example?

A I could give you one very recently, just this weekend my brother and sister-in-law were here and she said she wanted grandchildren right away and I looked at her, and this is after they had left and I said you want grandchildren, she said, "From them, certainly not from you."

Q So how would you—well, let me ask you one more thing, because of your mom's views on abortion did she ever—are there other ways in which she brought it up in which you felt she was specifically trying to make you feel bad and feel guilty and feel like you had done something wrong?

A I don't know, a lot of times mom didn't have to say anything. When we would see—we would watch a movie perhaps on TV that had something to do with teenage pregnancy or something just the look in her eyes, she would look at me and the look in [1426] her eyes is, "I cannot believe you have done

that," and I would have to look away. I felt guilty just by the way she would look at me.

It is almost like I have her looking over my shoulder saying, well, you have done this now.

Q Does she—I know you have said this before, I will ask you again; did she ever bring up the issue of teenage pregnancy or sexuality in any way to discuss openly your feelings and what you were going through?

A Never. When I did once ask her for help because at one point I was having a hard time dealing with it, she rejected the idea; she said you can come to me for help but the way she said it she said it in such a harsh tone I don't know how she—how I could go to her to ask for this if she was going to yell at me, talk down to me and tell me what I was to do rather than asking, rather than asking me what I wanted to do.

Q Can you sort of summarize in general what your mom's attitudes and her behavior with regard to pregnancy and abortion from that time on made you feel?

A Can you say that again?

Q You have described what your mom's attitude about abortion was and told you you had killed something. You have also talked about the way she has thrown it back in your face, and expressions, and that kind of thing.

What did all that make you feel about the abortion [1427] by yourself?

A It made me feel worse about myself, worse about the decision I had made. I thought I had done something for myself and she couldn't realize that. I felt guilty.

The decision was hard enough to make and to actually go through with it and accept what I had done. I didn't need her coming down on me afterwards.

Q How would you say the abortion and your mother learning about the abortion has affected your relationship with her?

A We always had that thing between us, it will never make it quite the same. She had told me that it will take you a very long time to rebuild the trust that you have destroyed and sometimes now even I know that I don't have the trust that I should for being my age and a senior in high school; I thought that I should deserve a little more than that because I have learned

from what I have done and she doesn't seem to realize or accept that.

Q Did you ever at that time, do you ever worry that she might do something drastic out of her anger towards what you have done?

A Yeah, I have often been afraid of her kicking—kicking me out of the house. She kicked my brother out of the house because of being too independent, too outgoing and I am afraid she just may do the same thing for me.

THE COURT: There is just the two of you now in the [1428] home?

THE WITNESS: No, there is my mom, me, my two brothers, one is older, one is younger.

BY MS. PINE:

Q Do you have—your relationship with your mother would be better today if you had not told her about the abortion two years ago?

A Yes, I believe so.

* * *

TRIAL TESTIMONY EXCERPTS OF I. B., SISTER OF MINOR

[DIRECT BY MS. BENSHOOF]

[CROSS BY MR. ACKERBERG]

[1446] * * *

Q So after Meadowbrook told you you could go to court in your home county, what is your home county?

A St. Louis.

Q What steps did you take next?

A I then called the courthouse; after I told my mother and my sister that this had to be done, I called the courthouse.

Q Where?

A In Virginia, since I worked there every day, and told them what the situation was and what I wanted to do.

I was referred to someone from social services and I don't know if the name is important, if you want the name it was

Debbie Josephs, and I explained the situation to her, told her about the time factor, she did not know what—

MR. ACKERBERG: Objection, hearsay.

THE COURT: I think it has relevance with the fact it was said, not whether it is true or not. Objection overruled, you may answer just that it happened—

THE WITNESS: She said that she did not have any information on it and could I call her back in about an hour and a half, which I did. And she told me when I called her back [1447] that if we went to Duluth or Meadowbrook they would take care of the whole court proceeding along with the actual medical procedure, that that would probably be the best thing, that they weren't able to do that for us there; that if we went the other two places they would take care of it for us, either facility.

Q What did you do next?

A Well, I told them that I would just as soon be able to do it there and could I talk to anyone else and I believe at that time I talked to a Jean Paoletti. There were a few phone calls involved and after two years I guess I don't remember the exact sequence, but I did talk to her twice and then I finally got the judge on the phone and I told him the whole story over again and at several points I was told that either one of the other two facilities could take care of everything for me.

The judge finally said—excuse me, Jean Paoletti said they did not have the tools or the forms, they had the ability to do it at the Virginia court but they did not have the tools or the forms.

BY MS. BENSHOOF:

Q When you were told this what did you do next?

A At this point that was the end of that conversation or the two I had, I called back down to Meadowbrook and I don't remember if it was Pam or Paula that I talked to and asked [1448] them what kind of a form or what I needed and I said I could have a doctor's statement written up, whatever was required. They said they would send me some information as to

what the counties down here use, which they sent to me, forms, sample forms.

Q How did they send it to you?

A By air express. It came overnight.

Q Do you still have the envelope?

A Yes, I have the envelope in my purse with the information in it.

I then waited for the information to arrive and I believe that was Thursday and this had started on Monday—or Wednesday. I was not at work Wednesday afternoon so I started in again Thursday morning.

I called back to the judge's chambers and got the judge—

Q What judge?

A Judge Hall from the Virginia court.

I told him that I could have whatever they needed, I had some sample forms that could be used to let us do this part of it in Virginia. He asked me if my sister had a lawyer or was being represented, and I said no. He said, well, if she doesn't then I will have to appoint a public defender. I was not aware that she would have to be represented. Since he said that he would have to do it we went along with it. I was just trying to get this thing speeded up so we could get going [1449] and I told him if he would just give me the name of the public defender I would call them, make an appointment, whatever I had to do.

He told me at that point that the public defender was in court with him and if I would hold on a minute I could talk to him.

A few minutes later a gentleman by the name of Richard Salmen, I think, as I recall, was his name, introduced himself; he said the judge had told him what was going on, set up an appointment, and we were at the courthouse at I believe about 11:30.

Q That morning?

A 11:00–11:30; at which time—

Q When you say "we", who are you referring to?

A I was with my young sister and my mother was with.

He spoke to my sister for probably a half an hour, I don't know exactly what the conversation consisted of, I didn't press her as far as that.

Q You were not in when he talked to her?

A No, it was the two of them, they were talking, and at that point I was given a form or my sister was given a form that was a report to court, which I assume came from Duluth because the counseling was done at the Womens Health Center down there. My sister was given the form, told to have it retyped, fill it out and bring it back in the afternoon and [1450] she could see the judge.

Q She was given a report to the court form by whom?

A I believe Richard Salmen gave it to her.

Q And did your sister give this form to you?

A Yes. She told me what she had been instructed to do and because I happened to be lucky enough to have access to a medical secretary, I took it back. The name was inked out but the questions had been answered, all in all. I had it retyped, gave it to my sister, she filled it out and we were back in court that afternoon with a letter from the doctor, her doctor.

Q The doctor you work for?

A Yes, the doctor that examined her and also the doctor that I worked for. So I did have it retyped and it was filled out and we were back in court that afternoon.

Q And did you go into court with your sister when she saw the judge?

A No.

Q And did your sister come out with a court order?

A Yes, she did.

Q And did you then take that order down to Minneapolis?

A Yes.

* * * * *

[1453] Q And other than your sister have you ever seen a court order for a minor in Virginia?

A No, I have not.

MS. BENSHOOF: That is all I have.

THE COURT: Cross Examination, Mr. Ackerman (sic)?

CROSS EXAMINATION

BY MR. ACKERBERG:

Q You weren't told at any point that the Virginia court would not process the petition, were you?

A They said they had the ability to do it but they didn't have the forms or the tools.

Q You indicated this was the first time that had come up, right?

A I don't know if in specific words, but, yes, I was under the impression that it had not come up.

Q Do you know of any minor who has been turned away from the Virginia courthouse in trying to get a petition processed?

A No, I do not.

Q On what day did you first contact the court?

A Monday.

Q And on what day did the court hold the hearing?

A Thursday afternoon.

Q And on what day was the petition approved?

A Thursday.

* * *

TRIAL TESTIMONY EXCERPTS OF J. H.,
MOTHER OF MINOR

[DIRECT BY MS. BENSHOOF]

[1521] Q And have you supported the children?

A Yes.

Q What year did you get a divorce?

A Officially in February of '73.

Q What were the grounds of that divorce?

A At that time the grounds were cruel and unusual treatment or something; I don't know what they—

THE COURT: Cruel and inhuman?

THE WITNESS: Cruel and inhuman treatment.

BY MS. BENSHOOF:

Q Did you actually go to court in this matter?

A Yes.

Q Was there testimony about your husband's treatment of you?

A Yes.

Q What was the nature of his treatment of you?

A Basically it was physical abuse, based on his anger with me before for not acting right.

My two witnesses were there to testify, one because she happened to be at the house when he slapped me with a spoonful of peanut butter because I didn't know how to make a peanut butter sandwich and the other was a nurse friend, I'd go to her to check some bumps on my head because I didn't want to go to the doctor.

Q And the bumps were caused by your husband?

[1522] A Yes.

Q Was he ever abusive to the children?

A Yes.

Q What sort of things did he do to the children?

A Mostly in terms of intimidation because they knew how he treated me so basically his philosophy was that everything, every dispute was to be settled by a board, what you need is the board up alongside the head. That was his solution to any situation that he couldn't control.

Q With the children?

A With them, yes.

Q Subsequent to your divorce what was the nature of your husband's contact with the children?

A He typically will see one of them like once a year.

Q So if there is four children he will only see the children once every four years?

A Probably.

Q So he sees one of the four every year?

A Yes.

Q And what is the nature of that contact?

A A social visit, they go to Arizona and he takes them to Disneyland when they were little or some type of thing like that for two weeks.

Q Did there come a time when one of your daughters got pregnant?

[1523] A There came a time when two of my daughters got pregnant.

Q Could we start with the first one.

Do you remember what year that was?

A That was in probably '79.

Q And did she come to you about this pregnancy?

A Yes, she did.

Q And what was the result of that?

A She came to me and asked me if I would—told me that she and her boyfriend had decided she was going to have an abortion and would I go with her to the clinic.

Q And did you?

A I did.

Q Did you talk to her at that time about whether or not she should tell her father?

A No.

Q Do you know whether or not she told her father?

A She did not tell her father. She asked me to promise that I wouldn't tell her father.

Q Do you believe that—what is your understanding if her father would have found out about her pregnancy?

A First of all, he would have probably harassed her terribly. He would have held it over her head forever. He would have talked about it to the other children, to make a big family issue of it and I don't really know whether he would—it would have ever—if he would have not, you know, seen her again or [1524] let her come out. I don't know what he would have done except that is—this typically would be something he would use to hold over her head to get her to do something later on, "Well, you remember when you did this kind of thing."

Q Do you have personal knowledge that his reaction to events subsequent to the time he moved away is what you described?

A Yes.

Q So even though you are divorced his relationship with the children continues in a manner to hold things over their heads.

A A social manner, yes, and in that same kind of thing he typically holds things over their heads.

Q Now did there come a time when your second daughter got pregnant?

A Yes.

Q What year was that?

A That was in 1981 or it was after the law so it must have been in the spring of '82 I think it was.

Q Did she also voluntarily come to you about her pregnancy?

A Yes.

Q And could you describe the nature of that communication or what steps you took to comply with the law and how you felt about it?

A When she came to me and her boyfriend was going to be gone because it was something that he didn't want his parents to know about so he didn't even want to be in town when she went [1525] to the clinic. So she had come and asked me if I would go with her and she had already called the clinic and talked to them and found out that she had to have consent by a parent and—which I assumed to mean that she had to have my consent since I was the custodial parent—so we went under the assumption that my consent was all she needed and that is so—since I was going to be going with her I could sign a consent when I got there. Then it wasn't until after we got there that she was already through the counseling and through all the other films and everything else that she was told that she had—where was the consent from her father, which of course we didn't have because, well, I was the one who didn't think that that would be necessary since I had legal custody of her and I didn't have to have his permission for anything else, when I had her tonsils out or anything like that.

So then what happened is we had to leave the clinic.

Q What clinic was this?

A Meadowbrook Clinic and go down to Hennepin County courthouse and go through filling out all the papers and get a court order based on the fact that her dad wasn't around and it wasn't anything she wanted him to know, before we could go back and complete the procedure.

* * *

[1527] * * *

Q You went before Judge Lindsay Arthur. Did he ask you any questions?

A Basically the same type of things you asked me.

Q And so you had to relate the story of your divorce to the judge?

A Well, I didn't because I didn't want my daughter to hear it, what the gory details were. He accepted the fact that my divorce was based on physical abuse and I didn't have to tell him all about that.

Q But you had to relate that in front of your daughter this day that she was getting her abortion?

A Yeah.

Q How did you feel about having to bring up those details on that day?

A Well, I didn't think the whole thing was necessary so I was very angry about having to bring up all of this other stuff in addition to what she was there for.

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TRIAL TESTIMONY EXCERPTS OF MARY RING,
SOCIAL WORKER WITH OLMSTED COUNTY SOCIAL
SERVICE DEPARTMENT

[DIRECT BY MR. ACKERBERG]

[CROSS BY MS. BENSHOOF]

[1653] * * *

Q Do you know what the purpose of those questions are?

A I think, my understanding of the purpose of the questions is to develop awareness of the minor's understanding of the decisions involved in terms of pregnancy, her maturity, involved in terms of understanding the decision that she is making and also the circumstances that are surrounding her in terms of that decision.

Q You mentioned followup contact; is that correct?

A Yes.

Q What is involved in that?

A Well, sometimes clients will call me or come in to see me and advise me of—that they have gone for a post-abortion checkup, that they have—I usually ask them three questions: Number one, did you have any medical or psychological com-

plications; number two, did you have your post-abortion checkup; and number three, did you receive contraceptive counseling at Planned Parenthood or some other medical facility.

Q Do minors who go through the parental—who go through the judicial bypass in Olmsted County, are you appointed as their [1654] guardian ad litem?

A Yes.

Q And how does the minor get in touch with you?

A Sometimes the minor is—well, in most cases the minor is referred by Planned Parenthood and sometimes from doctors, and sometimes from the court system.

But most minors come to me prior to going to the court system.

Q Okay. And do you assist the minor in getting to court?

A Yes, I do.

Q How do you do that?

A I provide counseling and complete a form and then I accompany the minor up to the court to make arrangements with a court and with the minor to obtain a court hearing date and to obtain a legal representation.

Q Could you describe what happens when you and the minor go to the court to make an appointment?

A We go up to the clerk's office; I indicate I want my standard form situation. Most of them know me up there on sight and are prepared to help me and we usually go to a private office. We have been using Judge Agerter's office or chambers, he is usually gone.

Q What was the purpose, if I might interrupt, of going to a private office?

A For confidentiality.

[1655] Q Who did you go into the private office with?

A We go in with our representative of the clerk of court, myself and the minor, and we proceed in contacting the attorney and making arrangements so that attorney can provide legal counsel to the minor or the clerk.

* * * * *

[1660] * * *

BY MS. BENSHOOF:

Q Ms. Ring—

A Yes.

Q —you are a social worker with the Olmsted County Social Services, is that correct?

A That is correct.

Q And you do pregnancy counseling?

A That is correct.

Q And other counseling with other kinds of clients?

A About three months ago they asked me to take on child protection because luckily, or for some other strange reason, pregnancies have been down a bit in Olmsted County so my case load has gone down a bit.

So I have been asked to do other things.

Q Apart from the regular psychological counseling do you do any other kinds of counseling with clients?

A Mainly I have done pregnancy counseling but in the last three months I have now gotten involved in child protection.

Q How long have you done pregnancy counseling in Olmsted County?

A I think it will be 12 years in August.

[1661] Q So you counseled both adults and teenage women for 12 years in Olmsted County?

A Yes.

Q When these women come to you is privacy or confidentiality of their conversation with you a major concern?

A We do our best to provide confidentiality to clients.

Q When a teenager comes to you for pregnancy counseling do you tell her parents that she is pregnant?

A No, I do not.

Q It would be contrary to your professional ethics to do so, wouldn't it?

A Well, if a teenager is coming to me for counseling, in terms of the pregnancy, I think it would be a violation of my professional ethics to advise her parents.

Q Would it also deter teenagers from seeking you out for help if they thought you would tell their parents?

A I think that would be a great barrier, yes.

Q That would be based on your 12 years of experience with teens, right?

A Most likely.

Q When teenagers come to you for abortion counseling do they come to you in some instances because they don't feel they can go to their parents?

A I think on some occasions that might have been the situation.

Q So for some of these teenagers are you familiar with their [1662] family situation, just being a social worker in Olmsted County?

A In some cases, yes, we are aware of their family situation, because that family has had a long history or record of involvement with our agency.

We do handle those situations in a particular way because—if I am allowed to give an example—if I have a mother who is working for our agency, working with a social worker at our agency, and there is a file, we keep a file or record of all of our clients, what I do is we separate the minor's information from the parents' so that if the parent wanted to read their file they would not find any information on that minor in that file in terms of seeking an abortion.

Q How long have you separated the minors from the patients all 12 years?

A I can't answer how long we have been doing that. I know we have been doing it for some time. I don't know if we were as conscientious when we had a different law in effect.

Q But you are conscientious about seeing that the minor's parents do not involuntarily find out about the minor's pregnancy, aren't you?

A We work at it, yes.

Q Because you think that if a parent finds out about her daughter's pregnancy, by looking at your file, that could have some very bad ramifications, is that correct?

[1663] A I think so.

Q And you have seen situations with bad family ramifications when they found out about a teenager's pregnancy, haven't you?

A Yes, we have dealt in some circumstances with a parent finding out about their teenager being pregnant and not being able to respond or handle that in a positive way for the teenager.

Q What are the negative ways that you have seen?

A Well, my goodness, I think it probably would take some time to explain, you know, some of that.

I think probably putting it in simple terms there is a real breakdown in the family relationship, the relationship between the parents and the minor is strained. Sometimes even more complicated than that.

Q Well, have you ever seen situations of physical violence or being kicked out of the home?

A I haven't seen the direct ones; I have been involved in threats of ones.

Q Do you believe those threats are real?

A Yes, I do. I have been involved in some of those threats so, yes, I do.

Q When you say you have been involved in these threats, you mean they have threatened you?

A Well, we have had situations with minors where they have told their parents that they were electing to get an abortion [1664] and parents have responded in sometimes negative or violent ways and that is often why I have accompanied minors. This has occurred mainly when we had the old law where minors—that that occurred, those situations of violence or threats or violence occurred when a minor didn't tell their parents but these minors had to tell their parents because they needed financial support in obtaining an abortion and I went with them under those circumstances to tell the parents because they just didn't have any choice or option in that matter and we really had to spend some time working through some of those problems.

Q You mean you went with the minors to tell their parents so they could get money because they were afraid of violence?

A Well, they wanted the money to obtain the abortion and that was their only avenue of obtaining that abortion.

Q Right. But you accompanied the minor to tell the parents because the minor was afraid of violence?

A The minor was afraid of violence, yes.

Q You acted sort of like a bodyguard?

A No, I did not. I acted as a person who was going to provide support and help to that minor because that minor didn't have any other, you know, option at that time in working that situation out. I wasn't sure if the minor was accurate or was making an accurate statement that her parents would indeed react a certain way so I went with that minor to work through [1665] the problems.

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TRIAL TESTIMONY EXCERPTS OF ELDON HALL,
JUDICIAL OFFICER FOR ST. LOUIS COUNTY

[DIRECT BY MR. ACKERBERG]

[1730] * * *

Q On the second petition that was approved, what was the time lapse between the time the minor contacted the court and the time that the petition was approved, if you recall?

A I would say six hours, maybe.

Q Six hours?

A Yes. Six working hours.

Q And in each of the cases was the standard decision—was the petition approved on the basis of mature and capable of giving informed consent to an abortion without parental notification?

A Very much so.

Q Have there been any lapses in confidentiality under the two bypass proceedings that have been held?

A Certainly none that I have been made aware of.

Q Is there a procedure in place now for minors to gain prompt access to the court for purposes of judicial bypass?

A Yes, there is.

Q What are they?

A The procedure itself is a written procedure which has been directed, I believe, through the district court administrator, Mr. Beck, and the process internally within the court, at

least from my end, is to be available, make an immediate response to the request—immediate.

* * * * *

TRIAL TESTIMONY EXCERPTS OF SUSAN STACY, ADMINISTRATIVE ASSISTANT IN GUARDIAN AD LITEM OFFICE OF HENNEPIN COUNTY

[DIRECT BY MR. GALUS]

[CROSS BY MS. BENSHOOF]

[1776] * * *

Q Okay. Is there some sort of quota or guideline rule of thumb; I don't want to put words in your mouth, but do you have some limit?

A We try to keep the limit at six a day.

Q And is it your policy to make exceptions to that limit?

A If it is an emergency or is necessary, yes.

Q Okay. Under what circumstances is it the policy of your office to waive the six-a-day rule?

A If we are told by the clinic that it is necessary that the [1777] girls get in on that day because of how advanced their pregnancy is, that they would be in the second trimester, it would be more expensive for them, if they traveled a long distance, and it would be a very great inconvenience for them to come back another day, that sort of thing.

Q Do any other circumstances come to mind where you take more than six?

A No, I think that is about it.

Q Do you frequently waive the rule of six or is it infrequently waived, or what?

A Fairly often it is waived.

Q Do you know how recently you have exceeded six?

A Yesterday.

Q How many did you have yesterday?

A Seven. Tomorrow there are eight.

* * * * *

[1779] * * *

Q Based upon your experience in booking and scheduling these hearings, do you have any estimate as to the average amount of time between the—that elapses between the request for the hearing and the date of the hearing?

A Usually it is just a matter of days. They certainly have the option of when they want to come in.

I know a girl called yesterday and wanted an appointment for the end of March which was three weeks or over. That is truly exceptional, but that was her choice.

Q So sometimes the hearing dates are selected to suit the young woman's choice?

A Usually.

Q And sometimes it is the first available appointment?

A Right.

Q Well, when you say—I believe in response to my question you said it typically is just a matter of days between the time of the request and the time of the hearing.

Could you elaborate on what you mean by days, a matter of days?

A If somebody called on Thursday it would probably be Monday unless there was some extenuating circumstances.

Otherwise they would call on Monday and get in on Tuesday, Tuesday to Thursday, that sort of thing.

* * * * *

[1784] * * *

A Our guardians are always instructed as to the confidentiality in any matter involving juvenile court so that, of course, carries over into the parental notification calendar, that this is confidential, they are not to tell anyone about the girls they may see there, what goes on, or any other information they may get from their interview.

Q As a superintendent of this group of guardians, have you ever received a complaint of any breach of that confidentiality?

A Never.

Q Have there ever been any occasions when any out-of-the-ordinary confidentiality problems arose?

A There have occasions where the guardian has known one of the girls. There have been other occasions where the girls will see someone else from their school, their class, whatever, in the halls and they are concerned about that. We had one instance where a girl showed up with both her mother and grandmother and the guardian that was scheduled that day was the grandmother's best friend.

Q On those occasions—on that occasion where—or those occasions where the guardian has known the girl, what if anything was done about that?

A In the one where the guardian was the grandmother's best friend they saw each other in the hall and they said, I guess, we both know why we are here, do you want to talk to someone [1785] else or me, and it was left up to the family and they chose to talk to someone they knew rather than a stranger. The girls that are concerned about meeting a friend in the hall, we try to put them in a different room. We bring them in at a different time so they don't have to run into the people they know.

If the guardian knows one of the girls and they feel it would be a problem, not so much for them but for the girls, then I fill in and I do that one.

* * *

[1794] * * *

BY MS. BENSHOOF:

Q On direct examination you ran through with Mr. Galus the [1795] fact that you supervised the training of the guardians to hold parental notification hearings, is that correct?

A Susan and I do that jointly, yes.

Q Do you interpret the standard of maturity to be anything different than capable of giving informed consent?

A No.

Q And in figuring out whether or not a minor is capable of giving informed consent, wouldn't it be correct to say that you rely on the knowledge and counseling that they have received at the clinics to a great extent?

A Yes.

Q How would you interpret the phrase best interest, when you train the guardians, or when you hear a petition yourself, a petitioner yourself?

A I consider the best interests that maybe the girl is not mature but it is not in her best interest to continue with the pregnancy since she does not want to.

I feel it is not in teenagers' best interests to become mothers.

Q In your experience with the guardian have you seen a lot of teenage mothers?

A Yes.

Q Isn't it true that when you—well, strike that.

After you interview a girl, and I guess you have seen 500, do you make a recommendation to the judge, is that [1796] correct?

A Yes.

Q Have your recommendations nearly always been on maturity grounds?

A Usually.

Q But usually can you put a percent on it?

A 90 to 95 percent, I am sure.

Q You have seen 500 girls. Have you ever had a recommendation to the judge turned down?

A You mean my recommendation?

Q Your personal recommendation on the 500 girls?

A No.

Q And to the extent of your knowledge in supervising other guardians have they ever had a recommendation turned down?

A Not that I am aware of.

Q We have had some people in there testifying in Hennepin County, Susan Smith, Judge Oleisky and there has been testimony that there have been three girls that have gone through the Hennepin County system that didn't at least initially get their petitions granted.

One was a girl who was frightened and turned mute; one was a girl who wanted to be turned down because she thought she would get married; and I understand in those cases they came back, and there was a third girl.

Do you know about the third girl?

[1797] A Yes, I do.

Q Was that one of your clients?

A Yes, she was.

Q Was the other two your clients also?

A One of them was.

Q Which one?

A The girl that didn't want the abortion because she thought her boyfriend would marry her. I talked to her the first time she came through court; not the second time.

Q And those, the other two cases, did ultimately get abortions?

A Yes.

Q So you were the guardian for the third person who didn't get a parental notification petition granted in Hennepin County?

A Yes.

Q Could you explain the circumstances of that case?

A The girl was quite young; I think she was 14 or 15, she was from Wisconsin; she came with her mother and when I talked to her she kept talking about killing her baby. She told me when her baby was due, how upset she was about it. She said that her mother had told her that it was best for her to do that. Her mother was definitely pushing her to have the abortion. She made it very clear that that was not what she wanted to do.

The recommendation that I made to the judge was that [1798] I could not in good conscience recommend that order be granted given the way she felt under the circumstances, and about the whole subject of abortion.

Her petition was denied. In that particular instance we had not asked the mother to come into the hearing, we thought it would be too difficult.

After the hearing we walked out and told her what had happened; the mother started to cry, the girl started to cry, it ended up the public defender had the girl at one end of the hall, I had the mother at the other end, they were both hysterical, the girl was begging the public defender to take her back into court, she would say anything the judge wanted her to if he would only sign the order, she could not stand to see her mother upset; the

mother was crying and saying I can't let her have a baby; she is only 14 years old, she will be stuck on AFDC the rest of her life.

I don't want that for her. It had been a tremendous hardship for them to come to Minneapolis, the mother was working in some type of a menial job where she was trying to keep her family together, she was a single parent, she was very concerned that if she had to take another day off of work she would lose her job. Their car was a wreck; she didn't think it could make another trip to Minneapolis. She didn't know what to do.

When I was trying to talk to her she wanted to know [1799] what had happened; why the judge had turned down the petition. I told her that we had recommended that, we didn't feel it was in the girl's best interest because of her strong feelings about abortion and I said don't you think your daughter is going to resent you for pushing her into this and she said of course she is; I know that, but it is a chance I am willing to take, this is more important.

It was very difficult for me, she was saying some of the same things I know I would have been saying in her position.

It was very, very difficult for the girl to see her mother so upset and feel that she was definitely the cause of it.

They did leave. I did hear later that she did have an abortion, they sent a letter to the last-known address of the father. I don't believe the parents had ever married, but they obviously had to make a second trip back to the clinic. I have no idea how they accomplished that.

Q So then in this instance you were really feeling that the girl was, if not mature, at least capable of making the decision to be a mother in—

A Yes.

Q So it was an anomaly as far as the statute goes because she was making a decision to be a mother?

A Yes.

[1800] Q And do you ever see, as a guardian, teenagers who have two biological parents, both of whom know about the pregnancy?

A Yes, that has happened.

Q Why do the girls go to you if both parents know?

A Sometimes there was a misunderstanding; they didn't understand that they had to get a signature.

Other times the parents have been informed or have found out about the pregnancy and just have refused to sign saying that they wanted the girls to go to court; they want to make things as difficult as possible for them.

Q So the parents view is sending the girl through the court system as a punishment?

A Yes.

Q Do the girls view it that way also?

A Probably initially. I don't know if they do after the fact, but before that I am sure they do.

* * * *

[1801] Q When you see the girls initially at their interview with you, what is their demeanor, what do you observe?

A They are nervous, some are better at hiding that than others, but I think all of them are nervous about going into court. They don't know what to expect.

They are concerned about what we are going to ask and even more concerned about what the court is going to ask; what the judge will think of them, what will he say, what will he do, how they will feel. It is very typical for them to say, "Am I going to be embarrassed, will he make me feel bad, what is he going to think about me."

Q So they feel they are being judged by the judge?

A Definitely.

Q And do they feel that they are more or less being judged?

A Yes.

Q Do they believe there is a good chance they will get turned down?

A They are concerned about that.

They ask how many times are these things granted, what do you think my chances are, does the judge usually sign them, that sort of thing.

Q If you say to them that the judge usually signs them, does that reassure them?

A I don't know. I hope so.

Q About what percent of teenagers that you see have parents [1802] with them?

A About a quarter of them, 25 percent.

Q Do you ask questions during the interview, of the parent also?

A Sometimes. I usually try to talk to the girl alone first and then toward the end of the interview, if she wants, we ask her mother to come in so we can explain the procedure, what is going to happen from that point on and what they can expect. I like to talk to the girls alone initially so we can find out if it truly is their decision or if someone is coercing them into it.

Q When you see the girl and a parent, is it your observation that oftentimes or sometimes the relationship problems or the parental problems are rehashed in front of you?

A Not very often, no.

Q And have you ever had any situation where one parent will come in and the other parent is let's say seriously ill?

A Yes, that has happened several times that the girls say I can't tell my mother or my father; whatever, they have some kind of catastrophic illness and it would just be very, very upsetting or detrimental to their health to inform them of what was going on.

Q And in some of those instances has the other parent been present?

A Yes.

[1803] A Yes.

Q And you believe the girl and the parent?

A Yes.

Q Have you ever had any teenagers come before you who have told their parents about a pregnancy and suffered physical or verbal abuse because of it?

A Yes, a couple. I had a girl tell me not too long ago that she had told her mother about another pregnancy and had in fact had an abortion, the mother had known about it, but at that time her mother had been very, very verbally abusive to her and kept throwing that up to her, making comments about her character, her behavior, that sort of thing and she was certainly not going to inform her of any future pregnancies.

Q Isn't it your experience that this statute has never weeded out an immature minor for whom an abortion would not be in her best interests except for that anomaly you discussed?

A That is right.

Q Have you had teenagers as parental notification clients who have suffered from abuse and neglect?

A A few, yes.

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TRIAL TESTIMONY EXCERPTS OF JODY DESMIDT,
LAW CLERK FOR HENNEPIN COUNTY
JUDGE OLEISKY

[DIRECT BY MR. ACKERBERG]

[1889] * * *

Q Are there any measures you take to allay whatever anxiety minors might have?

A I guess I just try to be real friendly with the girls when [1890] they come in. We have them sit, they sit in my office waiting, for example, if the first one is in with the judge, I will have the next girl sitting virtually across from my desk and I will just, if she asked me about the hearing, I will tell her it is real short and the judge is real friendly and I will ask them about the weather, just try to get them to be relaxed, you know.

Q And afterwards do they comment on the procedure?

A Yeah. I have heard some of them say it wasn't—

MR. PENTELOVITCH: Objection, about to give hearsay.

THE COURT: I think we have gone into that at great length on both sides about how the girls react, what their reasons are and so on.

You may answer.

THE WITNESS: I have had them say to me, well, that wasn't so bad—I guess they are nervous when they go in and when they come out they feel like, you know, the judge was nice to them and the hearing wasn't as bad as they had thought it could be.

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TRIAL TESTIMONY EXCERPTS OF JANE SCHLEUSNER,
COURT REPORTER FOR HENNEPIN COUNTY
JUDGE OLEISKY

[DIRECT BY MR. ACKERBERG]

[1899] A I wouldn't consider it a duty but I do it because I feel that they are in a bad way and it is a little bit—I don't want their experience with us to be any more traumatic than it has to be or would be.

Q How do you do that?

A Well, for a little background, when you deal with a lot of attorneys like I do you tend to have to kind of be strong at certain points during the day and I don't—I am less that way, I am softer, I talk softer, I smile more and I might even joke with them if the need arises.

Q On occasion has Judge Oleisky stopped a trial in order to hear a parental notification hearing?

A Absolutely.

Q Well, once the hearing begins have you noticed what the demeanor of the minors are, generally?

A Well, for the most part I would say that they are paying very close attention to what is happening around them, they are tied in their seat, they seem a little nervous, they are trying to answer questions appropriately and they seem a little nervous. They are looking forward to it being over, I think. Some smile though too.

Q Where are your stenographic notes kept of the hearing?

A I keep them with my daily notes and I, every day at the end of the day, no matter what I have heard during the day, I keep them all together. I label the day and I file them in a box. The box is kept in my office for about four to six [1900] depending on how many I have, that is just for my convenience. The office is locked every night.

Then after that they go down to the vault, we have a vault in our building that is kept locked at all times.

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TRIAL TESTIMONY EXCERPTS OF MARK McDONOUGH,
FORMER LAW CLERK FOR HENNEPIN COUNTY
JUDGE OLEISKY

[DIRECT BY MR. ACKERBERG]

[1902] * * *

Q Have you had any experience with parental notification in the abortion context?

A Personally?

Q Yes.

A Yes. When I was first out of high school, my first year in college, the woman that I was dating regularly, steadily, whatever, got pregnant so we had to both deal with that at that time.

Q And did your girlfriend contemplate notifying her parents?

A I think we had the reaction that most young people do, when they find themselves in that position, and that is, "We can't tell our folks because they are going to kill us," or whatever; and, you know, I think now looking back it was [1903] simply we did not want to anger our parents and more importantly didn't want to disappoint them.

So that was our first reaction, can we handle this situation without letting our parents know about it.

Q Were the parents informed?

A Yes, and actively involved.

Q And what was the response of the parents?

A Well, it surprised—I guess it surprised both of us. I don't think either of us thought that our parents were that smart about things or that understanding about it, but it was an incredibly difficult time, something that takes you forever, I think, and our parents helped us through it.

It was a very trying time for both of us, both sets of parents were supportive to their children and their children's friends.

Q And neither you nor your girlfriend expected that response, initially?

A I think we did, but that wasn't our first thought.

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TRIAL TESTIMONY EXCERPTS OF DAVID KNUTSON,
ATTORNEY WITH HENNEPIN COUNTY
PUBLIC DEFENDER'S OFFICE

[DIRECT BY MR. ACKERBERG]

[CROSS BY MR. PENTELOVITCH]

[1910] * * *

Q Was there an occasion where the parent found out that her child was coming into the Hennepin County court for a parental notification hearing and threatened to send the police to pick up the minor?

A Yeah, I was told that the parent had asked the Burnsville Police to go to the juvenile justice center in Hennepin County and retrieve their child.

Q What did you do about it?

A I asked the guardian and Judge Oleisky if we could have an accelerated hearing and basically get that person out of the courthouse and over to whatever clinic she was going to attend before the police were to arrive.

Q Were you able to make such arrangements?

A Oh, yes.

Q Did you make notes when you were interviewing the minors?

A Yes.

Q What did you do with those notes?

A I destroyed them.

Q Why?

A Pardon me?

Q Why did you destroy them?

[1911] A I didn't have any filing system to keep them and there was no reason to keep them and I suppose from the confidentiality standpoint.

* * * * *

[1920] * * *

BY MR. PENTELOVITCH:

Q Now have you made any observations about the type of person who you have represented or who came through the public defender's office seeking representation on these parental notification hearings in terms of their social or economic background?

A Yes.

Q What are your observations?

A They are very much nonminority, they are very much white and they are very much middle class.

Q Is that a deviation from the experience you have with your other clients in the public defender's office?

A Markedly so.

Q Have you drawn any conclusions about the parental notification-judicial bypass system from the fact that the [1921] minors that you have represented have tended to be middle or upper middle class whites?

A Yeah, I think I probably have.

Q What is your conclusion?

A Well, I think the first conclusion I drew is that the procedure is one of jumping a number of hurdles to get into court and it seemed to me that the kids who were able to jump those hurdles almost by definition were going to be mature, were going to be intelligent, or whatever word you want to use to describe that.

It seems like once they finally got to my office there was probably a weeding out process. They just all were middle class and it seemed to be by and large middle class, I don't know, I can count probably on one hand the number of minority kids that I represented in the process for those three years and of the minority kids that I represented, well, let's say maybe ten minority kids at the most, most of these kids seemed to come from a middle class-type of background.

Q Approximately how many minors did you personally represent?

A Well, from a numbers standpoint I really wouldn't know. It would be hundreds, it would probably be between a third and a half of all the kids that came through Hennepin County from 1981 through 1984 and I just have no idea.

Q But many hundreds it would be?

[1922] A Yes, I would think so.

Q And yet 10 or less were minorities?

A Yeah, that is my impression.

Q And the majority of those minority individuals were from a middle class or better social-economic background, is that correct?

A Yeah.

* * * * *

[1924] * * *

Q Did you get any indications from any of these minors that the reason they were seeking judicial bypass rather than notifying their parents was that they were concerned about being abused or had been abused in the past?

A Yes.

Q How frequently did that occur?

A Well, this is just a rough estimate; probably 20 percent and maybe 25 percent of the cases.

Q And do you have a percentage of your minors who were reluctant or unwilling to tell their parents because of their parents' religious or moral beliefs?

A I would say an equal percentage, maybe a little higher.

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TRIAL TESTIMONY EXCERPTS OF PATRICK CONNOR,
FORMER RAMSEY COUNTY PUBLIC DEFENDER

[CROSS BY MS. PINE]

[1984] * * *

Q Following Judge Petersen's heart attack did it become substantially more difficult to get an appointment for a minor. Was scheduling more difficult?

A Scheduling was more difficult, yes, because instead of having one centralized judge or area to go to to schedule we had to try to fit in the hearing with one of the several judges that were available.

Q Could you give us an idea of in what ways it became more [1985] difficult; what kind of things would happen that had not happened previously or the things that would happen at that time?

A Well, when Judge Petersen was off the bench we had some meetings between the various administrative personnel and the juvenile court and the public defender's office set up two days a week that would be earmarked for these hearings and Judge Petersen did his best to be available during those times we had earmarked. We tried to continue on that basis as I recall, but it turned out that there was no municipal court judge available and I recall it being on Mondays and Thursdays that we tried to have the hearings. If there wasn't a judge available we wouldn't be able to have the hearing on that day. Something that I recall happening is having to typically tell

the girls that we couldn't promise them a hearing on a given day when they called and we talked about a hearing they would have to call back to our office unless we could return the call to them at home or whatever, and then we would verify whether or not that hearing date was available after having called municipal court, seeing whether a judge was available.

Q Wasn't it sometimes true that at the time the minor called back you had not yet been able to get an appointment?

A That did happen on occasions.

Q So the minor would then have to call again?

A Correct.

[1986] Q In your time in the public defender's office representing minors, was there ever a time when a minor called on a first occasion in an attempt to get an appointment and never called back?

A That did happen on occasion.

Q What was your impression as some of the reasons why the minor never called back?

A On the occasions that I had spoken with the minor personally and they didn't call back, I recall there being a couple of times that I had the sense that the girl was frightened, up tight when we talked on the phone, and then when she didn't get back to our offices, you know, a day or two later whatever, I remember a few times thinking to myself it wasn't real surprising she hadn't called back, she did sound frightened.

Q Do you think—do you have any impressions as to what might have happened with some of those minors?

A In every—well, this only happened a few times and in the instances I can think of they did call back eventually, let's say the following week, rather than, you know, initially when we asked them to call back so they eventually did get in and have a hearing but it was later than what we had initially talked about.

Q What would you say the—usually how long did it take you to get an appointment for a minor from the time she called, what would you say on the average, give us the average and give [1987] us the longest amount of time?

A The average would be if a girl called on a Monday or a Tuesday the average would be to get her on that following Thursday. If she called Wednesday, let's say half the time we would still be able

to get her in on Thursday, the other half of the time we would have to go over into the next week.

If she called on Thursday or Friday it would certainly obviously go into the next week.

There were occasionally times when we had already scheduled as many minors as we had earmarked with the judge and so on that could be heard on a given date and as a result the girl may have to wait until the next week. So a girl may have called on Monday, Tuesday, Wednesday and not gotten in until as late as Thursday of the following week. That is as long as I recall it ever happening.

Q So would you say that if you looked at the problems the occasional problems in getting appointments promptly with the court, in other words, the delay due to the court's schedule, and you combined that with difficulties the minors may have had in getting away from school or getting into court and combined that further with any delay that may have been due to the intimidation on occasion, there could be substantial delay before she actually got into a court hearing?

A Yes. As I said, like I said, in the case of a couple of girls, for whatever reason they didn't call back immediately, [1988] they called back a week later, there certainly would be a delay of a couple of weeks, and perhaps as long as three weeks before they got in.

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TRIAL TESTIMONY EXCERPTS OF JUDGE NEIL RILEY,
JUDGE OF HENNEPIN COUNTY DISTRICT COURT
[CROSS BY MR. ACKERBERG]

[2009] * * *

Q How would you describe the tone you sought to set when the [2010] minors came in for these hearings?

A It was nonthreatening. I sympathized with the predicament that they were in. I didn't tell them that but it must have been very obvious.

Q During the proceedings did you review the report of the guardian ad litem?

A Yes.

Q And did you ask questions of the minors?

A Limited pretty much to what I have already testified to.

Q Were the proceedings confidential as a general matter?

A Not as a general matter; they always were.

Q They were held in camera?

A Yes.

Q When was your decision rendered?

A Right then and there.

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TRIAL TESTIMONY EXCERPTS OF EDWARD EHLINGER,
DIRECTOR OF PERSONAL HEALTH SERVICES FOR
MINNEAPOLIS HEALTH DEPARTMENT

[DIRECT BY MS. PINE]

[CROSS BY MR. GALUS]

[2030] * * *

BY MS. PINE:

Q Let me go back to one thing that you talked about in giving us the basis for your opinion.

You mentioned that there might be other possible causes. Do you have an opinion on the relative importance of the parental notification law in explaining these trends?

A Well, I think in looking, as I mentioned looking at all of the factors that could influence these age groups, the other factors that would probably affect both of these groups fairly equally, whereas the parental notification law would be a factor that would affect only the 15 to 17-year olds and therefore, all other things being equal, that parental [2031] notification law would be an important factor.

Q In your opinion why would you say that the law might have this effect on the birth rate and the decreasing abortion rate for teenagers?

How would it operate?

A Well, the law is geared to have pregnant women, pregnant girls tell their parents that they are pregnant or tell them that they are planning on having an abortion and this may be a frightening experience for these women or they may not know the

ways to get around the parental notification through the legal system, which would then have them postpone or not tell their parents at all. And part of the delay, teenagers are not—often deny their pregnancies and any delays add onto the already delayed access they have to care and services for their pregnancy.

Q So you believe the requirement of notice, or alternatively going to court, might be what—can you reiterate that again?

A It might be a deterrent. The wanting or needing to tell their parents about their wish for an abortion, or telling their parents that they are pregnant, or the onus of going through court may be a deterrent for women seeking any kind of care.

Q And when you say deterrent, do you mean deterrent to having an abortion?

A That is the factor that I think would be deterred.

* * * * *

BY MR. GALUS:

[2038] A In terms of, you know, I am not sure the exact question that I answered you, my impression was you asked if that—there was a getting at whether there was a firm link between or if there were any other causes or any other explanations for some of these numbers and the rate, the birth rates and abortion rates and I said there are other causes, there are other things that have to be considered and that there are some assumptions that have to be made.

Q Do you recall me asking you on Wednesday morning last the question in substance as follows: Dr. Ehlinger, is your opinion of a connection between the parental notification statute and the data, Minneapolis data regarding abortion rates and birth rates, just speculation on your part? Do you recall me asking you that question in substance?

A In substance.

MR. PENTELOVITCH: I think the question is hearsay.

THE COURT: Objection overruled.

THE WITNESS: I remember you asking a question of that kind of substance.

BY MR. GALUS:

Q And do you recall responding to that question, "Yes."?

A I responded affirmatively to that question.

Q Do you recall using the term "Yes."?

A Yes.

Q And we talked at that time, did we not, also about your [2039] opinion as to other factors that may account for the data in that table, correct?

A That is correct.

Q And did you affirm to me at that time that in your opinion many factors may account for that data?

A That is correct.

Q And what are those factors?

A There are a lot of factors I think that influence birth rates and abortion rates and I am not sure that I know of all of those factors myself, but some of the factors are the economic situation occurring in this state, the increasing poverty in young women in Minneapolis, which goes along with the decreasing insurance coverage for that population.

Some of the other political or—I am not sure they are political, but budgetary occurrences that happened at the federal level in 1981, and that also would affect the services at the city level and population changes in Minneapolis that have been occurring.

Q So in your view many factors influence birth rates and abortion rates in Minneapolis?

A That is correct.

Q Including the economic situation and levels or incidence of poverty, insurance coverage, budgetary occurrences at the federal level in 1981 and population changes?

A That is correct.

* * * * *

[2043] * * *

THE WITNESS: I think that attitudes toward abortions affect abortion rates and I believe that from my dealings with minority communities they have attitudes that are different than what Caucasian attitudes are. But I don't

know what those attitudes are and how they would affect abortion rates. I could guess at some of those things but I really don't know and some of my assumptions that I had previously, in looking at national data, didn't match with my assumptions from Minneapolis, so I would feel uncomfortable, you know, stating one way or the other that these abortion rates were affected by this particular attitude among minorities.

* * * * *

[2049] * * *

Q Do you think the—well—I believe you testified that you thought the minority rate of the population in Minneapolis affected the abortion rate, correct?

A Yes, I did.

Q And that it changed, a change in the minority rate might affect a trend in the abortion rate, correct?

A That is correct.

Q And is it your understanding the minority composition of Minneapolis has changed in the period 1980 to 1984?

A From my—we don't have census data, but we do have information from the public schools that shows an increasing number of minorities coming into the Minneapolis public schools from 1980 onward.

Q And you told us last Wednesday morning that is one of the pieces of information that you believe might account for a change in the abortion rate?

A That is a possible factor, yes, sir.

* * * * *

TRIAL TESTIMONY EXCERPTS OF DR. PAUL GUNDERSON,
DIRECTOR OF MINNESOTA CENTER FOR HEALTH STATISTICS

[DIRECT BY MR. GALUS]

[CROSS BY MS. BENSHOOF]

[2085] * * *

THE COURT: Objection overruled.

The question is his opinion as to the effect of the bypass procedure on the gestational age of minors in Minnesota.

You may give me your opinion.

THE WITNESS: Based on the information shared in Exhibit 5(sic), there is no effect.

BY MR. GALUS:

Q Do you have any other basis for that opinion other than the gestational age data as set forth in the Defendants' Exhibit 35?

A I have two bases upon which I premise that opinion.

Q Would you please, taking one at a time, explain those other two bases to the Court?

[2086] A We have analyzed the married versus the unemancipated rates for the years in question and detect no difference, in fact the average gestation in weeks varies very little between the two populations.

Secondly, we have analyzed the resident women in Minnesota, age 17 and under, versus all women in Minnesota who use a medical clinic in this state for purposes of securing an induced termination and again we note that the results are essentially identical to that depicted here in Exhibit 35.

Q Do you have any opinion as to—

MR. PENTELOVITCH: Excuse me, Your Honor, I am going to move to strike the last answer, it is hearsay.

THE COURT: Objection overruled, the answer may stand.

BY MR. GALUS:

Q Dr. Gunderson, do you have an opinion as to whether or not 1980 was anomalous in terms of gestational age data for minors, that is patients aged 17 and under—do you have an opinion?

A Yes, I have an opinion.

Q What is your opinion as to whether or not 1980 gestational age data is or is not anomalous?

A My opinion is that it is not.

Q What is the basis of your opinion?

A An analysis of the 1979 data which would suggest gestation [2087] ages of the type which are exhibited in Exhibit 35.

THE COURT: But now the '79 is not shown in here.

THE WITNESS: That is right.

* * * * *

[2088] THE COURT: Objection overruled.

Is there any claim being made by plaintiffs that the statute results in greater complications for minors?

MS. BENSHOOF: Well—

MR. PENTELOVITCH: I will let her answer that.

MS. BENSHOOF: In Plaintiffs' Exhibits 1 through 9 and also in Dr. Hodgson's testimony there is a claim that the risk increases through delay, specifically the types of risks such as laminaria due to cervical—lack of laminaria use which relates to cervical injury, but we haven't demonstrated or said on any particular patients those risks have occurred except those who haven't been able to get it, who have gone to childbirth, which of course is much more dangerous.

THE COURT: Maybe you didn't hear my question or I didn't understand your answer.

Is there any claim on the plaintiffs' part that the parental notification statute has resulted in an increase in complications to minors resulting from abortions?

MS. BENSHOOF: Increased risk?

THE COURT: I am not asking about increased risk, I am asking about increased complications.

MS. BENSHOOF: No.

MR. PENTELOVITCH: I agree exactly with what she said; I think we have demonstrated increased risk but we have not proven any actual complication.

[2089] THE COURT: I will let him answer, but it seems to me the question is somewhat moot but go ahead.

MR. GALUS: Your Honor, we understand the contention to be that the statute is unduly burdensome for among other reasons, the reason that it endangers the medical health of those regulated by the statute and we think it fair

to put on evidence as to whether or not there has in fact been that effect, irrespective of what—

THE COURT: I agree, go ahead, you may answer, if you have the question in mind.

THE WITNESS: I have the question, I believe.

MR. PENTELOVITCH: I assume you were overruling the foundational objection?

THE COURT: Yes, sir.

BY MR. GALUS:

Q What is your opinion?

A My opinion is that there is no evidence that the complication rate has in any way changed as a result of the act itself.

Q The rate, that is the complication rate reported on Defendants' Exhibit 35, in percentage terms, does in fact increase between 1980 and 1983, does it not?

A That is right.

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[2103] * * *

MR. GALUS: In Minnesota, under the age of 18, has the percentage of that population receiving first trimester abortions changed since 1980?

THE COURT: He would have to know the population and raw figures in order to figure out the percentage, is that what you are telling me; is that what you are asking him for?

MR. GALUS: Yes.

THE COURT: Do you have that data with you?

THE WITNESS: Yes, I do.

THE COURT: Okay, since 1980?

MR. GALUS: Yes, sir.

MR. PENTELOVITCH: I have the best evidence objection.

THE COURT: You can get it from him, he has it in front of him apparently.

MR. PENTELOVITCH: We would like—

THE COURT: You surely are entitled to it.

All right.

THE WITNESS: In 1980 75 percent of all abortions received by women age 17 and under was received by the end of the 12th week, the end of the first trimester.

THE COURT: Wait a minute now, I don't understand what I am getting. Give me your figure again with respect to [2104] 1980, did you say?

THE WITNESS: In 1980 75 percent of the abortions performed to women age 17 and under were performed by the end of the 12th week of gestation which is the end of the first trimester.

BY MR. GALUS:

Q That is in Minnesota?

A In Minnesota.

Q Okay.

THE COURT: What you are telling me is 75 of the abortions on the people 17 and under in 1980 were first trimester abortions?

THE WITNESS: That is right.

MR. GALUS: That is what is the—what is a comparable data for 1981, if you have it?

THE WITNESS: I am sorry, I have not calculated '81 and '82. I do have '83.

BY MR. GALUS:

Q All right, what is '83?

A '83 is 77 percent.

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[2454] * * *

BY MS. BENSHOOF:

Q So if nationally 9.5 percent of all women get abortions in the second trimester compared with minors in Minnesota, 23 percent getting abortions in the second trimester, there is a public health problem in Minnesota, is there not?

A Yes, it is a problem, yes.

Q And if you look at that first line, 1978 to 1983, the problem for minors is not decreasing, is it?

A No, there is a slight increase there.

Q Yes. And the trend, and if you are not familiar please tell me, the trend in the United States, is, as a whole, not Minnesota, is for women to be getting abortions earlier, isn't that true, if you have been reading the CDC?

[2455] A Yes, overall that is the case, yes.

Q But Minnesota minors are not participating in that national health trend, are they?

A Not given the data you have quoted.

Q Well, it is your data.

A Uh-huh.

Q They are not participating in this national public health beneficial trend, are they?

A That is right.

Q And that is a public health concern, isn't it?

A Yes, it is.

Q And everyone in Minnesota should work to try to get minors back into the first trimester, shouldn't they, as a public health official?

A Correct.

Correct, that has been our stance as an agency.

Q There is also quite a substantial difference when you look at that chart between minors and teenagers age 18 and 19, there is a 5 percent difference in 1983, isn't that correct?

A In 1983?

Q Yes.

A That is 16, 16 percent?

Q Right.

A Yes, you are understating the difference.

Q It is a 7 percent difference?

[2456] A Correct.

Q Now as a statistician you don't just—I don't know if you can tell me off the top of your head, but what percent increase would that be for someone 17 and younger compared to those 18 and 19, do you want to use my calculator?

A I am sorry, I may not have understood the question.

Q My question is you don't just do subtraction of 16 from 23 but rather in comparing the two—

A That is right.

Q —in comparing the two groups you would say one is 50 percent higher or whatever?

A Yeah, yeah.

Q If I gave you my calculator would you be able to give me the answer?

A Oh, yeah, yeah. The proportion of 18 and 19-year-olds in Minnesota in 1983 is only 70 percent that of the proportion for those 17 and under and that constitutes a fairly sizable difference.

Q Can you put that in terms of a percent?

A Well, in essence, round off, a 30 percent difference.

Q So in essence one could say, and correct me if I am wrong, that 30 percent more minors age 17 and younger get abortions in the second trimester than 18 and 19-year-olds?

A As a proportionate expression that would be correct, uh-huh.

TRIAL TESTIMONY OF DR. RICHARD SCHMIDT, PHYSICIAN AT GOOD SAMARITAN HOSPITAL IN CINCINNATI

[DIRECT BY MR. ACKERBERG]

[CROSS BY MS. BENSHOOF]

[2125] * * *

Q Does the specialty of obstetrics and gynecology include abortion procedures?

A It does.

Q Are there medical risks to abortion?

A Yes, there are.

Q What are they?

A Well, there is, as with any medical procedure, there is a risk of mortality. There is a risk of complication, major and minor. There are medical post-abortion complications. There are long-term complications.

Q Well, one of the complications, one of the medical risks of abortion is death?

A That is true.

Q How many deaths have there been from abortion?

A Well, looking at the 1985 CDC Abortion Surveillance, there are a total of 175 deaths reported from 1972 through 1981.

Q Were some of those deaths within the first trimester?

A Yes, they were first trimester abortions over that same time period produced 83, a total of 83 deaths.

Q Complications are also a medical risk of abortion?

[2126] A That is true.

Q What complication risks are there?

A Well, in terms of medical complications, hemorrhage and infection are the commonest, perforation of the uterus; long-term complications include a substantial question of future infertility or a higher incidence of spontaneous abortion.

Q Are there some types of adverse effects that the medical community is uncertain about?

A Well, there is continuing debate about the long term effects of abortion on fertility and the incidence of spontaneous abortion, in fact that debate continues with many studies being done and various conclusions reached by various individuals in the case, that that is still a lively topic and the bottom line is not in.

Q Are teenagers especially vulnerable to certain kinds of complication?

A Teenagers are more vulnerable to virtually all the complications, the early complications hemorrhage and infection, they generally are slower to report them, slower to seek help and in terms of long-term complications they probably are particularly susceptible to cervical damage. The younger the teenager, why the more rigid the cervix and dilation of the cervix inevitably produces some cervical damage, some of which is visible, some of which may not be visible but may be reflected in subsequent pregnancy outcome. Some of that [2127] has been overcome by more gradual dilation of the cervix with laminaria and some of it is—some of the longer-term hazards may be improved by D&E, dilation and evacuation as opposed to D&C, but each of those still carries a risk which, as I point out, is still under extensive evaluation, but I think it is clear and I think there is wide-

spread agreement that teenagers are more susceptible to cervical damage than older women.

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[2133] * * *

Q Can parents of a minor provide medical history information that may be overlooked by the minor?

MR. PENTELOVITCH: Objection, Your Honor, leading.

THE COURT: Objection overruled, you may answer.

THE WITNESS: Yes, can and do very commonly. In virtually any medical procedure undertaken on a minor a history is sought from the parents. That is standard medical procedure.

Q Well, why couldn't a minor provide the same information?

A A minor may provide the same information; a minor may be very well capable of providing information that is within her [2134] knowledge.

Minors often have a rather sketchy view of their health status, when they were smaller children. They may be unaware of congenital problems, they may be unaware of family history which may be of significance.

Moreover, I think the teenager, under the stress of that particular problem, tends to minimize health problems. Her natural tendency is to want to dispose of that problem which is difficult for her and she tends not to pay much attention to the issues surrounding her own health history, health status and so on; which may be of significance.

Q Following an abortion is aftercare medically advisable?

A Yes, it is. Again following the pattern of other medical procedures, I think we would be negligent if we did not inform the parents of what to look for following an operative procedure, what to seek attention about, what to report, what to seek advice for.

And in other areas I think we would be negligent if we did not fill in the parents.

Q In her testimony Dr. Jane Hodgson stated that teenagers tend to have a higher incidence of infection after an abortion

because they delay post-abortion care and ignore complications.

Do you agree with that?

A I surely do, that is a common observation.

Q Does parental involvement have an impact on the quality of [2135] followup care that a minor might receive or seek after a medical procedure is performed on her?

MS. BENSHOOF: Objection, Your Honor, there is no foundation, the witness hasn't testified he has ever performed an abortion and talked to a patient about after-care.

THE COURT: Give me the question again.

MR. ACKERBERG: Does parental involvement have an impact on the quality of followup care that a minor might receive or seek after a medical procedure was performed on her?

THE COURT: I will let him testify. I will overrule the objection, you may answer.

THE WITNESS: In my experience, which I believe is as broad as anyone's, in the circumstances surrounding abortion it is very important.

It is common in our emergency room; we have a tertiary-level emergency room in our hospital. The common instruction given to patients in the abortion clinics in our area is to seek medical help if they have a problem from a major emergency room which is a perfectly logical and good thing to do.

As such we see abortion complications. In my experience at the Cincinnati General Hospital we manage many abortion complications and there is a very common pattern of, and particularly with young women, delay in recognizing either the effects of hemorrhage or particularly the effects of—[2136] of infection.

Picture, for example, and this is the kind of thing that we see fairly commonly, a young woman who has an abortion, her parents do not know about it, she has a little bit of fever, she may have some malaise, be not feeling quite as well. She may have some cramping, lower abdominal

pain. Her parents may very well interpret this as being a touch of the flu that a lot of other people have and is going around. It is in the interests of the child to hope that this really doesn't amount to anything because if she treats this as an illness, if for example, she has to go to a hospital, whether it is an out-patient facility, an emergency room, or be admitted to the hospital, this then involves hospital procedure which identifies problems. Their tendency is not to want to identify those problems so it is a natural tendency to hope that this, and believe that this is not a significant complication.

That is the way delays occur and can be avoided.

We see other examples where parents are involved, they may call too often, but indeed that is comparable to calling too late.

* * * * *

[2136] * * *

Q Have you had experiences with minors who are reluctant to inform their parents of the pregnancy?

[2137] A Minors are almost invariably reluctant to inform their parents. My own experience, and this extends, as I say, through private practice of some 35 years, and through our association with the teen-parent program, every teenager believes that her family relations are going to be utterly destroyed, and as well one not too distant example, I saw a 15-year-old girl whose mother I had taken care of, she called and asked my secretary if I could see her without—not knowing the problem, if I would see her without telling her mother and my secretary said yes, of course, and she came in and, indeed, she had an early pregnancy.

She did not want her mother to know about this. I said, what do you think is going to happen. She said, oh, my God, she will be horrified, she will disown me, I don't know that she is going to kick me out of the house but it is going to be terrible.

I said, well, now, look, I know your mother; I have delivered several babies for her, I have known her for years, I don't think that is going to happen and why don't we give it a try, why don't we call her up.

Indeed we did, her mother was not happy about it, but very quickly they resolved that problem and the teenager herself was, when presented with the prospect if she tried to do something without involving her parents the threat to their future relations, having this hanging over her was of [2138] significant concern.

As it turned out, she was aborted. She went to the local abortion clinic, her mother knew about it, her father knew about it, and I think they were off to a much more solid relationship.

That has been typical of my experience.

In over 200 patients treated in our teen-parent program, there are no horror stories. You hear about them, I believe some exist. We have had many parents of very poor economic circumstances, many broken homes, who were not happy about this but the general pattern in that clinic has been for parents to rally around the kids and be of significant help to them.

* * *

[2184] * * *

BY MS. BENSHOOF:

Q So that if we were—as a public health concern it would be good to urge all teenagers to get abortions in the first trimester, would it not?

A I think that is a good policy.

Q And if I want to show you in a hypothetical situation that there was a state in this country where teenagers under the age of 18 who got abortions, 25 percent of them got them in the second trimester that would be a public health problem, wouldn't it, or something to seek to reduce?

A It certainly should be reduced, yes.

* * *

[2239] * * *

Q Now you testified that you believe it is a good idea to notify the parents for various medical reasons.

If you take a hypothetical, if you had a young woman coming in who wanted contraceptive care or who had a pregnancy and she was accompanied by her mother and by her stepfather and

she had never met her natural father, if she had learned from her mother that there was a divorce and that her natural father had nearly beaten her mother to death, take that situation.

Would you, in that instance, urge the teenager, her mother, her devoted and loving stepfather, to get in contact with this batterer?

A No, I would not.

Q Why not?

A It would serve no helpful purpose and could conceivably do harm.

Q Do you see any medical purpose to getting in touch with, let's say a man who fathered a child but never married the mother and has never seen the child his entire life until she came to you for medical services with her mother?

[2240] A Would I feel it necessary to get in touch with that father?

Q Who has never seen—

A It is a hypothetical case, the circumstances of which I know nothing about offhand. As you put that as a blanket situation, no, I would not see any reason to.

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TRIAL TESTIMONY EXCERPTS OF DR. VINCENT RUE,
EXECUTIVE DIRECTOR OF SIR THOMAS MOORE
CLINICS IN SOUTHERN CALIFORNIA

[DIRECT BY MR. GALUS]

[CROSS BY MS. BENSHOOF]

[2264] * * *

THE WITNESS: My opinion is that parental notification, when the minor is confronted with a problem pregnancy and with seeking the resolution of that pregnancy, and an abortion, that the family is advantaged as well as the adolescent in notifying the parents and in having family communication about that topic.

THE COURT: I am sorry, advantages to the family?

THE WITNESS: There is both parental advantage as well as adolescent advantage.

BY MR. GALUS:

Q In what way or ways do you believe the adolescent, the pregnant adolescent is advantaged by the parental involvement?

MR. PENTELOVITCH: Objection, lack of foundation.

THE COURT: Objection overruled.

THE WITNESS: I believe teenagers have an unspoken [2265] wish to face their parents and draw upon their support and I think when they have the opportunity, and the encouragement from professionals as well as from the state to do so I think it is advantageous because they can benefit from the wealth of guidance and counsel that the parents have, the parents' information, the value system that the parents have, the support, the encouragement. So I believe that she has much to benefit there and the family unit itself is strengthened.

It has been my experience that the family unit is the major source of strength in a crisis and as a result crises for many families become catalysts for positive change.

* * * *

[2284] * * *

Q Based upon your education, training and experience as a psychotherapist and a family therapist, do you hold any opinion as to whether or not parents are likely to support their pregnant daughter's decision to have an abortion?

A Yes, I have an opinion on that.

Q What is your opinion?

A My clinical opinion is that parents in the main are supportive of their daughter's decision to resolve her pregnancy and in the main that is abortion. There are other studies that affirm that and I will just cite some of them very briefly here.

Fishman, Kimball, Clerman(ph), Bracken & Bracken, Perez, Reyes and Falk, Rosenthal and Rothchild; Steinhoff and Zimmerman. It has generally been found that most parents who

influenced and/or pressured their daughters did so encouraging abortion.

I will add one other study, and that is Rosen(ph), that found a similar conclusion.

Q Based upon your education, training and experience as a family therapist and psychotherapist, do you hold any opinion as to whether adolescents actively perceive their parents' reaction to an adolescent pregnancy or to an abortion decision?

A Yes, I have an opinion.

[2285] Q What is that opinion?

A Adolescents are prone to considerable exaggeration. They are also prone to considerable distortion, both of their own feelings and their parents' feelings.

Some are hypersensitive to anticipated parental reaction. Chilman and others suggest that this may be the first sharing of adolescent sexuality that has occurred between the pregnant teenager and the family. I wanted to add one other thing and it slipped my mind; if you might repeat the question I will continue.

Q Well, does your opinion with respect to adolescent perceptions in the regards you have just testified about, is that based at all on your clinical experience?

A Yes, it is.

Q What is the basis of your clinical experience for that opinion?

A That adolescents benefit from notification?

THE COURT: No, that they properly perceive or anticipate their parents' reaction.

THE WITNESS: Oh, yes, thank you.

There is considerable distortion of how the adolescent perceives parental reactions and there is also considerable projection that is she projects her own feelings of rejection about herself to her parents' anticipated reaction to being notified.

[2286] BY MR. GALUS:

Q Have you observed those phenomenon in your clinical experience?

A Yes, I have.

Q On more than one occasion?

A Very definitely.

Q Based upon your training, education and experience as a psychotherapist and family therapist since 1975, do you hold any opinion as to the psychological vulnerability of adolescents when confronted with a problem pregnancy as you have used that term, or a decision what to do about that pregnancy?

A I think taken as I said earlier—

Q First of all,—

A Yes, I do have an opinion, I am sorry.

Q Could you tell us what that opinion is?

A My opinion as I said earlier is that I believe adolescents as a group are at risk in the psychosexual area. Adolescents' decisionmaking typically spans into what is called concrete operational thinking as well as formal operational thinking.

Q You had better define those terms as you use them.

A Concrete operational thinking as developed by Piaget could be called maybe more child-oriented childish thinking where an individual looks at concrete and specifics, plans for immediate versus future goals and may have what is called haphazard reasoning as opposed to formal operational thinking [2287] which has the following five characteristics:

First, to anticipate possible outcomes.

Second, weigh values of each outcome.

Third, test risks systematically.

Fourth, consider complex interactions.

Fifth, associates behavior with outcomes.

Now I mentioned that because adolescents will cross back and forth in terms of their competency as to decisionmaking.

In a problem pregnancy we see the interaction effect between an intense emotional set versus—in addition to the cognitive measures of dealing with a problem pregnancy.

The result is that teenagers may tend to be egocentric and make irrational and emotional decisions about them and the various choices that they encounter.

Adolescents lack—lack the benefit of adult experience, life experience. Young women very often are less analytical in their

approaches to a problem and rely frequently on peers or romantic notions or unrealistic scripts. Some people will say that adolescent decisionmaking could be characterized by egocentrism and/or romanticism.

So in addition to that I would conclude and say that teenagers are at risk, they are vulnerable because they don't have experience; they have very little information with respect to the birth control, sexuality, abortion area; one study by [2288] Reichelt and Whirley(ph) found teenagers scored only 42 percent of correct answers on a topic of contraception, abortion and venereal disease and only 36 percent with respect to birth control in general.

Q I would like you to focus your attention on what I understand to be your testimony about your opinion as to the psychological vulnerability of adolescents confronted with a problem pregnancy or decision as to what to do with that pregnancy.

Is there anything in your clinical experience that leads you to hold that view?

A Teenagers—

Q And if so would you tell us what it is?

A Yes, there is. From my clinical practice I have seen teenagers act in a very impulsive manner when confronted with a problem pregnancy. They are overwhelmed by feelings of inadequacy and self deprecation, embarrassment and hostility.

They are vulnerable at this point because they have not contacted anyone, they are alone in their decisionmaking, they are frightened and they fear as to their future.

Q Have you observed any adverse psychological sequelii in your clinical experience to an abortion?

A Yes, I have.

Q What have you observed in that regard?

A I have observed a number of reactions, some of which span [2289] short-term rather mild reactions of depression, guilt hostility, sadness, remorse, through insomnia, eating disorders, interactional problems both with parents, partner and others; restricted subsequent bonding to future—in future pregnancies.

I have witnessed anniversary reactions, I have witnessed suicidal ideation, suicidal attempts because of a prior experience with an abortion.

Q And have you borne this witness with respect to patients of yours in your clinical experience?

A Yes, I have.

Q Okay. What do you mean—what do you mean by having observed anniversary reactions?

A Anniversary reactions are emotional high points that occur generally at the time of the abortion the following year.

It may also coincide with the time when the fetal child were to be born and anniversary reactions may manifest themselves with intense crying spells, with intense depression, with psychiatric numbing, that is an inability to feel, through manifestation of intense hostility, to withdrawal.

Q Have you personally provided psychotherapy to patients experiencing the reactions you have just testified about?

A Yes, I have.

Q What did you mean in your answer to my last question about suicidal ideation?

A Suicidal ideation is a thought process an individual goes [2290] through when he or she is extremely depressed. She considers options, ways of destroying herself. It is more serious, I will add, when the methodology is identified.

Q You observed that in one or more patients that you have personally provided psychotherapy for?

A Yes, I have.

Q Apart from your clinical experience concerning the adverse psychological sequelii that I have just enumerated, is there any other basis for your opinion as to the risk of pregnant adolescents for such adverse psychological sequelii?

A There are a number of studies that talk about psychological sequelii. Cates identified that pregnant teenagers are more at risk emotionally than are adults.

Adler found abortion is a stressful experience. Bold examined health experiences of Harvard women post-abortion including depression, anniversary reactions, guilt, despair. Smithonna found that women who treated abortion as a moral issue encountered considerable role and decisionmaking conflict.

Duetch found that never-pregnant adolescents manifest higher levels of self esteem than first time and repeated abortion

subjects. Repeated abortion adolescents showed significantly more signs of instability and personality conflict than the never-pregnant group.

There are many others that have identified adverse psychological sequelae.

[2314] * * *

BY MS. BENSHOOF:

Q Dr. Rue, what is your personal feelings about abortion?

A My personal feelings about abortion are that abortion is basically the taking of human life, and it ought to be only necessary to prevent the death of the mother.

Q And is it your opinion that life begins at the moment of conception?

A Yes, it is.

Q And so it would also be your opinion that the IUD and some birth control pills takes human life?

A Not some birth control pills, not being a medical doctor, but my understanding is that the IUD is abortive-fashioned and therefore it does destroy life after it has commenced.

Q Even though you personally oppose abortion are you still in favor—are you still in favor of keeping abortion legal in the United States?

A I am not in favor of legal abortion in the United States.

Q Are you familiar with the article—I imagine that you are—that you wrote entitled The Familial Context of Induced Abortion, Chapter 5?

A Yes, uh-huh.

Q In referring to page 125 of that article, would this quote accurately reflect your views: "Abortion shreds the [2315] soul of humanity and the fabric of relationships. It exists for women and yet it is against women, men and children. Like an anesthesia abortion comfortably numbs all from experiencing the burden of pregnancy. Abortion has become a social eraser, individually, quickly and secretly, eliminating all traces of a problem that is pregnancy and yet traces always remain. Within the depths of humankind the indelible marks of violation appear."?

A Yes.

Q Based on that view of yours, I take it that you would never believe that family problems might be a reason for an abortion?

A That is correct.

Q And that you never believe that mental, psychological, emotional problems would be a justification or basis for an abortion?

A That is correct.

Q And that you do not believe that incest would be the basis of an abortion?

A That is correct.

Q What about rape?

A The same.

Q Would you say that your views around abortion are well-known?

A Well, I don't know with respect to how many people read my [2316] articles. I don't have an answer to that. Am I asked to give talks, yes.

Q You spoke at the National Right to Life convention in June 1985, is that correct?

A If you will tell me where that was I can affirm whether or not I was there. I don't recall at this point.

Q Can you remember speaking at any National Right to Life conventions?

A Yes, I can.

Q And that convention received a fair amount of publicity, correct?

A I don't know which one that was. If you give me the location I could remember being in that city, but I have had a lot of speaking engagements.

Q Well, it would be a correct assumption that the National Convention received a fair amount of publicity?

A Well, that is speculative. Frequently the pro-life groups complain of not receiving sufficient publicity.

Q Would you say that your two clinics have a reputation, or clinic and branch office, have a reputation for being anti-abortion?

A No, I don't believe so.

Q Would you say that some of your clients are familiar with your views on abortion?

A Yes, I would agree with that statement.

[2317] Q Would it be a correct characterization of your views that you believe that there is a relationship between increased abortion or legal abortion in this society and the rise in child abuse?

A I think there is a correlation to the extent that it is causal. We don't know at this point. There are some studies that are suggesting that that is the case.

My own professional opinion is that I believe they are related.

Q And you did say, did you not, that if violence begets violence and abortion is the violent truncation of life, then to what extent does abortion actually enable child abuse, is that correct?

A That is correct.

Q And you have very strong feelings, do you not, about the fact that the laws in this society allow women to make the choice without the consent of the sexual partner or husband?

A I have an opinion on that.

Q And isn't it your opinion that sexual partners or husbands should be able to have a say in the decision whether a woman should have an abortion?

A To the extent that a sexual partner is involved in the conception of a pregnancy I believe it only logical, just and fair that that person ought to be involved in the decisionmaking regarding the product of that sexual encounter.

[2318] Q You said to the extent, don't all pregnancies start with a sexual partner?

A Well, not all. But let's—for our sake, yes, in terms of most problem pregnancies, unwanted pregnancies, they are the product of intercourse.

Q And isn't it true that because the man has been excluded from this decision there has been an increased inequality between the sexes and that the universal value of patriarchy has decreased and this inequality, "has the potential to breed displaced male aggression via child abuse, spousal abuse or self abuse."?

A No, that is not the direct quote and I disagree with the infusion there of patriarchy. I don't believe I ever used that word. If you would strike that out I would agree with that statement.

Q Except for the word patriarchy you agree with that statement?

A That phrase, patriarchy, yes.

Q Didn't you use that phrase patriarchy before in your testimony before Congress on the Human Life Amendment?

A I don't recall saying that word, I may have, but I don't recall it. My view is basically eliminating the male from the abortion decisionmaking does increase the inequality between the sexes.

Q And that you support, would you not, laws which would [2319] require forced consent or at least notification of sexual partners of women?

A I would support spousal notification laws regarding abortion.

Q What about sexual partners who are not married?

A Again I would support notification of sexual partners, yes.

Q But not consent?

A I don't have an opinion about consent, but certainly I would very strongly encourage, recommend, spousal or partner notification.

Q Would you also support such partner notification in the case of rape or incest?

A Yes, I would.

[2328] * * *

A If I am understanding your question you are saying when a minor does not want to contact her parents why don't I call up her parents and simply say, "Surprise, your daughter is pregnant."?

Q Yes.

A Because that is a violation of the confidentiality, the relationship, the privileged information I have with that minor.

Q And a minor's mental and emotional health can be as important as her medical health, can't it?

A Well, I am in the mental health field so I guess I am biased that way, yes.

Q And do you think that if minors thought you would be calling their parents, they would delay or maybe never seek you out for these kind of discussions about their pregnancy?

A Well, I don't have an opinion on that. I don't know.

Q But you do think it would be a violation of their confidentiality to—

A Yes, that I believe, that I know.

Q Is confidentiality important to you as a therapist?

A Yes, it is.

Q Why?

A Because it respects the right of privacy of the individual to communicate sensitive material to me in a relationship, in a context that is safe.

[2337] * * *

Q You have run into a situation with a battered wife and children?

A Uh-huh.

Q It is possible in such a situation of a daughter's pregnancy could cause death of either the wife or the daughter, isn't that true?

A I have never witnessed that.

Q But you do believe that could happen, do you not?

A It is a very, very remote possibility.

Q But you do believe that could happen?

A It is possible.

[2349] * * *

Q Now if a woman was married but separated from her husband and the woman had been battered and there was an order of protection against her husband and she was living and trying to raise her children herself, and you were trying to help the woman and her children, would you consider the batterer part of the family in the context of wanting him notified if the teenager is pregnant?

A Let's divide the answer into two parts.

Q Okay.

A First the batterer is very definitely a part of that family and second, with respect to any decision as grave as notification these exceptional cases, we must examine the context, and individual circumstances of both the teenager, her mother and prior problemsolving and whether or not there has been abuse to this adolescent. If there has been I don't see notification in the best interests of that adolescent.

* * * * *

[2373] * * *

Q But isn't it true that both of those eminent scholars who you respect and who are in your field oppose mandatory parental notification laws by the state?

A Most professionals in my field share their perceptions, namely that obligatory notification is not in the best interests of minors. I would respectfully disagree with that. It hasn't been my clinical experience.

* * * * *

BY MR. GALUS:

[2414] * * *

Q Have you, in the course of your counseling of adolescents, or psychotherapy involving adolescents, or family therapy involving families, a member of which is an adolescent, have you had occasion to deal with families where there was a custodial parent and a noncustodial parent?

A Yes, I have.

Q On those occasions have you ever had occasion to involve the noncustodial parent?

A Yes, I have.

Q And to what end and for what reason?

A Because that noncustodial parent is part of the family system and because of the nature of the problem pregnancy it is important and I encourage that that noncustodial parent be involved in the decisionmaking.

Q And has your encouragement been accepted in some cases?

A I would say in the majority of cases it has been accepted.

Q Based upon your experience in those cases, where your encouragement in that regard has been followed; namely encour-

agement to involve the noncustodial parent, have you had any ability to observe the results in terms of forming an [2415] opinion as to whether or not communication between the adolescent and the noncustodial parent has served any good?

A Yes, I have.

Q What is your opinion in that regard?

A Time and time again I have seen the relationship improve between this young woman, the teenager, and her noncustodial parent where a relationship was strained because the trust, the faith, the love was there, the sharing was beneficial in most instances.

* * * * *

TRIAL TESTIMONY EXCERPTS OF MARCUS KJELSBERG,
HEAD OF BIOMETRY DIVISION OF SCHOOL OF
PUBLIC HEALTH AT UNIVERSITY OF MINNESOTA

[DIRECT BY MR. ACKERBERG]

[2421] * * *

Q Dr. Kjelsberg, do you have an opinion as to what weight can be attached to the data in Exhibit 27 in hypothesising whether or not the statute has affected the abortion rates for minors, for Minnesota resident minors?

* * * * *

[2423] * * *

THE COURT: And I will let the witness give his opinion as to the statistical significance of these figures.

MS. BENSHOOF: The statistical significance of figures has nothing to do with the law.

THE COURT: Well, vis-a-vis the law, if he has an opinion as to that effect, I am going to let him answer. You may answer.

THE WITNESS: All right. I might say statistical significance has a very technical meaning in our profession. I will take the general meaning here and say that the figures given there, that minus 25 percent and the minus 11 percent are certainly consistent with a hypothesis that the law has an effect on the abortion rate; but I would consider that as a hypothesis and very speculative.

BY MR. ACKERBERG:

Q Why would you consider it speculative?

A Well, these are figures that I consider to be pretty much [2424] in isolation. They are—one would like to—and one would like to have data in order to make a case for the law having an effect to see that these data are supported when one looks at trends over time, when one compares different geographic areas, you would like to look, I think, at the age specificity, that is to look and see what the trends over time would be by single years of age to see whether or not—what the patterns would be over time.

To me, based on my experience, is that it is very, very hazardous to pick an event in time as an explanation for some alteration in vital statistic trends because they are the result of very, very complex social phenomenon.

* * * * *

TRIAL TESTIMONY EXCERPTS OF DR. ARTHUR HOROWITZ,
PHYSICIAN AT MEADOWBROOK WOMEN'S CLINIC

[CROSS BY MR. GALUS]

[2499] * * *

Q From time to time do you know whether or not women coming for abortion services sometimes ask for an appointment a week or a week and a half later?

A Yes.

Q Okay. To your knowledge does Meadowbrook have a policy of dissuading those women for setting an appointment a week or a week and a half later?

A Only inasmuch as the gestational ages involved with the—if the woman knows when her last period was and what her gestational age is, and if she would not be unduly delayed or placed into more jeopardy, significantly more jeopardy; for instance if she went from the first trimester into the second trimester by delaying for a prolonged period of time, we would suggest that she come in sooner.

Q Assume a woman asking for abortion services from Meadowbrook in the first trimester of her pregnancy, okay, and assuming further the woman says, well, I would like to

come in a week and a half later, and assume further that that is still within the first trimester and there is no apparent compelling circumstances or particular medical problems, Meadowbrook doesn't try to talk that woman out of that date, does it?

A We probably would not, but this is a very hypothetical situation because most of our patients want to get in as fast [2500] as possible and they might have a preference, say, for a Monday or a Friday or something like that. It would be somewhat more unusual for them to request, "I would like to come in in two or three weeks."

Q My question was a week or within a week and a half. Does that never occur?

A I am sure it does occur.

Q How about a request for an appointment five days later, does that occur?

A I am sure that occurs.

Q Under those circumstances it is not a matter of Meadowbrook's policy to urge the woman to come in earlier, correct?

A It would not be, again within the limitation I set forth.

Q Again assuming that the date she requested still puts her within the first trimester?

A Yes.

* * * * *

[2510] * * *

Q I would like to now, if I may, focus your attention on the first trimester and the subject of risks of abortion in the first trimester.

Isn't it true that it is your expert medical opinion that there is probably not a very much greater degree of risk from week to week within the first trimester?

A The risk in the first trimester is relatively small and although it does increase from week to week within the first trimester, it isn't really that great.

Q Isn't it true that the degree of risk from week to week within the first trimester does not vary, does not—probably does not change very much?

A I think it does change but again it is—we are dealing with relatively small increases, incremental risks.

Q And when did you form that opinion?

A Again I can't really tell you.

Q Prior to 1984?

A Possibly—probably.

Q Doctor, turn your attention, if you would, to page 29 of your deposition, starting at line 13.

Do you recall being asked the following questions by me and giving the following answers:

“QUESTION: Doctor, I believe you testified earlier in this deposition that generally speaking the greater [2511] the gestational age the higher degree of risk there is associated with the abortion?

“ANSWER: Yes, that is on a trimester-to-trimester basis.

“QUESTION: In other words, increased risks can be seen in the second trimester as opposed to the first trimester?

“ANSWER: As opposed to the first trimester and, in fact, it may that there is an increased risk with progressive gestational ages within the second trimester, but I am not sure if this has been exhaustively analyzed.”

Then there is a question and answer I would like to skip, but I would like you to turn your attention to line 28.

Do you recall being asked the following questions and giving the following answers:

“QUESTION: The evidence, at least to your mind, is unclear whether the degree of risk varies within the second trimester?

“ANSWER: Yes. I think it may well be as the gestational age progresses within the second trimester risk may increase.

“QUESTION: In the first trimester from week to week within the first trimester is there a greater degree of risk?

“ANSWER: Probably not very much.”

Do you recall giving those answers to those questions?

[2512] MR. PENTELOVITCH: I will make the objection this is improper impeachment because it is consistent with his testimony, if he is offering it as deposition testimony prior—

THE COURT: It is not impeachment, a deposition of a witness, of a party, can be used for any purpose.

MR. PENTELOVITCH: I agree with that.

THE COURT: It is in.

BY MR. GALUS:

Q And you reviewed this deposition carefully, didn't you?

A Yes.

* * * * *

TRIAL TESTIMONY EXCERPTS OF HENRY DAVID, DIRECTOR OF TRANSNATIONAL FAMILY RESEARCH INSTITUTE

[DIRECT BY MS. BENSHOOF]

[CROSS BY MR. GALUS]

[2531] * * *

Q Are there any studies in the United States comparing only adolescents who give birth, or who have abortions, in a controlled study, for example in one particular hospital?

A Well, there was a study done in the State of Hawaii which is the only study which comes close to that and that was a study done by Dr. Patricia Steinhoff (ph) from the University of Hawaii, and it was published very recently. I have an advance [2532] copy of the paper and they found, they checked their records for the years 1978, 1980, and found 313 abortion cases and 393 controls—by controls being women who delivered.

Q These are only adolescents?

A Yes. Well, they are young women, which means they may go up to age 24. I will be glad to mention some of the conclusions if you wish.

Q Yes, please.

A I will read: “The data provides striking evidence that women who utilized abortions were able to realize their family goals. They avoided subsequent unwanted pregnancies, subsequent births were overwhelmingly intended and wanted, and occurred in a positive emotional atmosphere. Among the very young women”—this would be women 15 to 17—“the use of induced abortions leads to postponement of the first birth well beyond the second birth of the women in the control group.” In other words, those women who delivered had a second child fairly rapidly after the first; whereas the woman who had the abortion was able to delay it longer. And it raised the social, educational, and economic level of the household and the subsequent family.

* * * * *

[2533] * * *

Q Has the World Health Organization, based on international studies, issued any statement on the sequelae of abortions?

A Yes. In 1978 there was an expert committee on induced abortions covering all ages, and from which I take this quote: "There is now a substantial body of data reported from many countries, after careful and objective follow-up, suggesting frequent psychological benefit and low incidence of adverse psychological sequelae."

Q And that was reported out by the committee appointed by the World Health Organization?

A And endorsed by the World Health Organization in publishing the report.

Q And that included people on the committee from every—other countries?

A No, if we had that we would have a committee of 158 people. I would guess that the committee was about 12 experts from around the world.

Q There has been testimony in this case by a—not a psychologist, a family relations expert, that adolescents are more at risk for adverse psychological sequelae than adults.

[2534] Could you comment on that observation?

A Yes. I am not aware of any scientific study which compared sequelae of abortion to sequelae of birth coming to such a conclusion. There has been no scientific follow-up study. There are many case histories, but there are no scientific follow-ups and our Danish study would indicate just the opposite. The women under age 20 had the lowest rate of admission to psychiatric hospitals compared to all other age women. The highest rate of admission to psychiatric hospitals after abortion were in women 30 to 34 years old; and among delivering women 35 to 49 years old.

Q So you would believe not only in your expert opinion but based on studies, that that observation is incorrect?

A Yes. I would go back to a study published by the National Academy of Sciences in the United States reported in the New England Journal of Medicine, June 1978, a study to which I was a consultant, and it was concluded that: "Feelings of guilt, regret, or loss, elicited by legal abortion in some

women, are generally temporary and appear to be outweighed by positive life changes and feelings of relief".

Nothing has happened in the scientific world since 1978 that would make me change that opinion.

* * * * *

[2544] * * *

A I have learned over the years that it is extremely important to respect the confidentiality of the adolescent. I have also learned that we must look at the adolescent as the adolescent perceives her or his world. They don't live always in our world. The world that we experienced as adolescents is different from the real world today and if a youngster for reasons of his or her own does not want to communicate, whether there are any factual reasons for not communicating, whether or not the youngster misperceives the opinion of his or her parent, whatever, I think we need to respect the right to confidentiality of the adolescent. And, I am not at all convinced that forced notification will do anything to alleviate that situation.

Rather my own clinical experience suggests that it will create far more stress because not only is the adolescent made uncomfortable by something happening that he or she did not wish [2545] to happen, but the parents are confronted by a situation with which they are extremely uncomfortable, and to expect parents to behave as they do in novels or in our best hopes and aspirations for ideal parent-child relationships simply does not square with the real feelings of real people and the real expressions of real emotions in the real world.

* * * * *

[2546] * * *

Q Do you have an opinion based on your original research and your extensive experience with others in your field, whether or not forced notification would increase or decrease a pregnant adolescent's emotional well being at the time of the abortion decision and the potential for any adverse psychological sequelae from abortion?

A It is extremely difficult to answer that because there is no scientific evidence. If somebody were to engage in a study comparing that, I wonder whether it would be worth the risk taken. It is not the kind of study which from an ethical point of view I would want to see authorized, because it means an invasion of

[2547] the confidentiality of the adolescent, it is a lack of respect for the adolescent as a person, and if that adolescent feels that all of these years his or her relationship with their parents was such that at this point they don't want the parents to know, I think it should be accepted, the adolescent's statement.

If the state wants to do such a study, of course that is possible, but I think the risk of creating havoc with adolescents is such that I, if I were to be on the ethical practices committee of an institution, I would not wish to see such a study done.

BY MS. BENSHOOF:

Q Do you believe that forced notification could increase a pregnant adolescent's emotional upheaval at the time of the abortion decision?

A I am going to hedge my answer because there is no scientific evidence one way or the other there, but as a psychologist who has seen a good many adolescents and knows adolescents I think fairly well, I would say the risk far exceeds the likely benefits.

[2578] * * *

BY MR. GALUS:

A Dr. Baird is a physician from Scotland.

Q Okay. And, speaking of your Danish Study Baird tells you there, does he not, that this is an impressive study but the United States has a different culture and social background to Denmark?

A That is what he said.

Q You responded Denmark has long been the leading indicator of social change, observers believe Denmark is ten years ahead of the United States. If so, problems of guilt surrounding abortion and measurable psychiatric morbidity may be expected to decline in the United States?

A That is what I said.

Q Does that continue to be your view?

A That is a hope and expectation, yes.

Q Is it implicit also in that view that as of the present time adolescents in the United States are more at risk for adverse psychological sequelae than adolescents in Denmark?

A Yes.

Q And will continue to be so at least for a period of ten years in your view?

A I can't predict, but it is possible.

[2584] * * *

Q Do you believe—well, based upon your education, training and experience, clinical experience and academic and scholarly research, do you believe that generally speaking adolescents find an abortion a more stressful situation than adult women?

A Depending on their ages. If you are talking about women under 16, they are likely to find it more stressful than those who are older and certainly more stressful than those who are married at 18 and 19 years.

Q Would you make that same generalization with respect to women 17 and under?

A It depends on their family situation, their marital situation and such.

Q The stress encountered by a particular adolescent will, in that particular case, depend upon a lot of variables?

A Correct.

Q You have generalized however, have you not, at least insofar as the group 16 and under, that group of women seeking an abortion will be in a more stressful situation than older women?

A It is very likely, yes.

Q Is that your opinion?

A Yes.

Q Do you have that same opinion with respect to the comparison—[2585] comparing the group of women 17 and under to older women?

A It depends on the individual concerned and on the family situation in which they find themselves.

J.A. 378

PLAINTIFFS' EXHIBIT NO. 10
[LETTERHEAD OF HENNEPIN COUNTY]

DATE: April 4, 1984
TO: Judge Oleisky
FROM: Susanne Smith
SUBJECT: Parental Notification Calendar:
Statistical Update

I. CASE VOLUME

August - December 1981	191
January - December 1982	474
January - December 1983	454
January - March 1984	118
TOTAL:	<u>1237</u>

II. HEARING DAYS/FREQUENCY

	# of days on which cases were heard
1981 (191 cases)	74
1982 (474 cases)	169
1983 (454 cases)	143
TOTAL:	<u>386</u>

Average number of cases per hearing day: 2.9

III. PETITIONER'S AGE

	1981	1982	1983	Total	/ %
Age 13	0	3	1	4	/ (.003%)
Age 14	5	9	3	17	/ .01%
Age 15	17	52	45	114	/ 10%
Age 16	67	157	156	380	/ 34%
Age 17	102	253	249	604	/ 55%

J.A. 379

IV. PETITIONER'S RESIDENCE

	Hennepin County Resident	Non-Hennepin Resident
1981 (191 cases)	90	101
1982 (474 cases)	231	243
1983 (454 cases)	198	256
TOTALS	519 / 46%	600 / 54%

PLAINTIFFS' EXHIBIT 21
(ALL)

LETTER FROM GEORGE O. PETERSON, JUDGE OF
RAMSEY COUNTY JUVENILE COURT,
TO REPRESENTATIVE KATHLEEN VELLENGA

RAMSEY COUNTY
JUVENILE COURT
GEORGE O. PETERSEN
JUDGE

December 6, 1982

Representative Kathleen Vellenga
Minnesota House of Representatives
886 State Office Building
St. Paul, Minnesota 55155

Dear Representative Vellenga:

I have now completed the data gathering and computations you requested on September 20 and to which I referred on September 27.

From August 1, 1981 through November 30, 1982, our Court has conducted 258 abortion-consent hearings.

In 80 of those cases, the parents of the girl were divorced. In 35 of those 80 cases, the girl discussed her abortion with her custodial parent but did not wish to notify her non-custodial parent of her desire to have an abortion.

In 20 of the 258 cases, the girl lived with both parents but wished to notify only one of them of her desire to have an abortion.

In another 48 of the 258 cases, the girl discussed the proposed abortion with an adult relative but wished not to notify either parent.

In many of the remaining cases, the girl had sought out the advice and counsel of other adults before going to professional

counselors. Those adults include teachers, employers, parents of friends, parents of the potential father, ministers, priests and neighbors.

In 8 cases girls were seeking their second abortion.

Two girls already had a child at home.

Fourteen girls were living independently or were in foster homes.

During the first full year the statute was in effect from August 1, 1981 to July 31, 1982, we held 167 hearings, an average of 14 per month.

Since August 1, 1982, we have held 91 hearings, an average of 23 per month.

There were an additional 15 girls who called to schedule hearings but then did not appear.

By age, the girls we have seen are classified as follows:

<u>Age</u>	<u>Number</u>	<u>Percentage</u>
13	2	1%
14	11	4
15	26	10
16	86	33
17	133	52
	258	100%

The reasons they give for not wanting to tell one or both parents about the abortion are as follows:

<u>Reason</u>	<u>No.</u>	<u>Pct.</u>
Fear of damaging parent-child relationship:	76	29%
Parents opposed to abortion-have said would kick the girl out:	54	21
Parents opposed to abortion-would force the girl to keep the child:	14	5

<u>Reason</u>	<u>No.</u>	<u>Pct.</u>
Marital, financial or health problems already in home-this would aggravate:	47	18
Absent parent or parents not part of their lives and have no right to know:	35	14
Prior physical abuse feared to reoccur:	11	4
Fear of prior expressed threats:	10	4
One or both parents alcoholic:	9	4
Raped:	<u>2</u>	<u>1</u>
Totals:	258	100%

As you might imagine, the reasons girls express for wanting an abortion are many and varied. The desire to continue one's education and have a career is expressed in over 95% of the cases. Regardless of hopes and plans for the future, some feel they are simply too young to have a child.

The overwhelming majority of the girls we see are above-average students, have part-time jobs, are active in school and church activities, volunteer in the community, and have responsibilities at home.

All the girls are aware of their options and have considered the alternatives to abortion: single parenting, marriage and adoption.

I hope this information will be helpful in your deliberations. Please do not hesitate to call if I can be of further assistance. I will always respond as soon as I am able.

Respectfully,

/s/ GEORGE O. PETERSEN
George O. Petersen
Judge of Ramsey County
Juvenile Court

GOP:ceb

PLAINTIFFS' EXHIBIT NO. 25
UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA
THIRD DIVISION

Court File No. 3-81 Civ. 538

JANE HODGSON, M.D., et al.,

Plaintiffs,

v.

THE STATE OF MINNESOTA, et al.,

Defendants.

DEFENDANTS' RESPONSE TO PLAINTIFFS' [SECOND]
REQUEST FOR ADMISSION

Defendants object to Plaintiffs' [Second] Request for Admission as ambiguous by failing to specify the time-frame applicable to requested admissions and failing to define "sit." The following responses are as of December 1983 and presume that "sit" refers to normal judicial work schedules without regard to (a) absences due to illness, vacation, judicial conferences, continuing legal education seminars and weather emergencies, (b) schedule departures required by caseload demands and emergencies and (c) the availability of judges outside normal work schedules.

Without waiving objection and with the noted qualifications, for the purpose of the above-captioned action only, defendants respond to Plaintiffs' [Second] Request for Admissions as follows:

STATEMENT 1. No judge sits in Roseau County on Wednesdays, Thursday mornings, and some Friday afternoons.

RESPONSE: Admitted as qualified.

STATEMENT 2. No judge sits in Clearwater County on Tuesdays, Wednesdays, or Fridays.

RESPONSE: Admitted as qualified.

STATEMENT 3. Judges Spellacy and Spooner sit in Itasca County each weekday from 8:30 a.m. to 5 p.m.

RESPONSE: Admitted as qualified insofar as the statement applies to Judge Spooner; denied insofar as the statement applies to Judge Spellacy.

STATEMENT 4. No judge sits in Cook County except for the first and third Wednesday of each month and during special term in March and October.

RESPONSE: Admitted as qualified.

STATEMENT 5. A judge sits in Virginia and Hibbing in St. Louis County each weekday from 9 a.m. to 4:30 p.m.

RESPONSE: Admitted as qualified.

STATEMENT 6. A judge sits in Goodhue County each weekday during regular business hours.

RESPONSE: Admitted as qualified.

STATEMENT 7. A county judge sits in Wabash [Wabasha] County Monday-Friday, and District Court Judge Lawrence Collins sits about once a month.

RESPONSE: Admitted as qualified.

STATEMENT 8. County Judge John Fahey sits in Carver County Monday-Friday during regular business hours.

RESPONSE: Admitted as qualified.

STATEMENT 9. County Judges Wolf and Johnson sit in Rice County Monday-Friday from 8 a.m. to 4:30 p.m.

RESPONSE: Admitted as qualified insofar as Judges Wolf and Johnson sit to 4:30 p.m.; denied insofar as Judges Wolf and Johnson sit from 8 a.m.

STATEMENT 10. Judges sit in Dakota County Monday-Friday from 8:30 a.m. to 4:30 p.m.

RESPONSE: Admitted as qualified.

STATEMENT 11. Judges sit in Freeborn County Monday-Friday and are almost always available during regular business hours.

RESPONSE: Admitted as qualified.

STATEMENT 12. No judge sits in Hubbard County on Wednesday or Friday.

RESPONSE: Admitted as qualified.

STATEMENT 13. No judge sits in Watonwan County at least one day a week.

RESPONSE: Denied.

STATEMENT 14. Judge Christianson sits in Pipestone County an average of four days per week; and when he is not present, another judge is usually available.

RESPONSE: Admitted as qualified.

STATEMENT 15. Judge Lasley sits in Jackson County Monday-Friday during regular business hours.

RESPONSE: Admitted as qualified.

STATEMENT 16. A county judge sits in Cottonwood County Monday-Friday during regular business hours.

RESPONSE: Admitted as qualified.

STATEMENT 17. A judge sits in Redwood County Monday-Friday from 9 a.m. to 5 p.m.

RESPONSE: Admitted as qualified.

STATEMENT 18. No judge sits in Murray County on Friday mornings, and Judge Holt occasionally travels to other counties.

RESPONSE: Admitted as qualified.

STATEMENT 19. A county judge generally sits in Nobles County Monday-Friday, but there are days when no judge is available.

RESPONSE: Denied.

STATEMENT 20. Judge Crippen is scheduled to sit in Rock County on Wednesdays, and Judge Christensen sits every Thursday morning. There are often several days during the week when no judge is sitting.

RESPONSE: Admitted as qualified.

STATEMENT 21. Judge Marquis Wood sits in Chippewa County five days a week, from 9 a.m. to 5 p.m.

RESPONSE: Denied.

STATEMENT 22. Judge Jim Zeug sits in Renville County about four days a week.

RESPONSE: Admitted as qualified.

STATEMENT 23. Judge Collins or another county judge sits most of the time in Stevens County.

RESPONSE: This request for admission is objected to as ambiguous and not susceptible to admission or denial.

STATEMENT 24. Both a district court judge and a county court judge sit in Anoka County every weekday during regular business hours. The scheduled judges are on call for emergencies 24 hours a day, seven days a week, so a judge is always available.

RESPONSE: The first sentence is admitted as qualified, except that five district court and five county court judges sit in Anoka County every weekday during regular business hours. The second sentence is admitted.

STATEMENT 25. A county court judge sits in Pine County each weekday from 8 a.m. to 5 p.m. However, when the judge is on vacation or attending judicial conferences, no judge is available in Pine County.

RESPONSE: The first sentence is admitted as qualified. The second sentence is denied.

STATEMENT 26. No judge sits in Sherburne County on Tuesdays and Thursdays, unless a traveling district judge happens to be in town.

RESPONSE: Admitted as qualified.

Dated: December 23, 1983.

HUBERT H. HUMPHREY, III
Attorney General
State of Minnesota

By: /s/ PETER M. ACKERBERG

Peter M. Ackenberg
Special Assistant
Attorney General

515 Transportation Building
St. Paul, Minnesota 55155
Telephone: (612) 296-8954

PLAINTIFFS' EXHIBIT NO. 27

Table 1

Abortions and Abortion Rates, Minnesota Residents
Under Age 20, 1980-1982

	1980	1981	1982	Percent change, 1980-1982
<i>Number of Abortions</i>				
Women under age 18	2,327	1,820	1,564	-32.8%
Women aged 18-19	3,380	3,064	2,799	-17.2%
<i>Abortions per 1,000 Women</i>				
Women under age 18*	20.3	16.7	15.2	-25.1%
Women aged 18-19	40.6	38.4	36.0	-11.3%

* Denominator is women aged 15-17

Sources

Number of abortions: Minnesota Center for Health Statistics, Minnesota Department of Health, *Reported Induced Abortions 1980, . . . 1981, and . . . 1982*.

Number of Women: Minnesota Department of Health estimates of women aged 15-19 for each year, divided into 15-17 and 18-19 according to the proportions in population estimates created by interpolation between the 1980 census figures and 1985 projections provided by Market Statistics, adjusted to national totals estimated by the Census Bureau.

PLAINTIFFS' EXHIBIT NO. 28

Table 2

Birth Rates, Women Aged 15-17 and 18-19, Residents
of Minnesota and Four Comparison States Averaged,
1981 and 1982

	1981	1982	Percent change, 1981-1982
<i>Minnesota</i>			
Age 15-17	17.3	16.7	-3.5
Age 18-19	59.4	55.8	-6.1
<i>Four States (Average)*</i>			
Age 15-17	22.9	21.7	-5.2
Age 18-19	70.6	67.3	-4.7

* Iowa, Nebraska, South Dakota, Wisconsin

Sources

Birth data: National Center for Health Statistics, U.S. Department of Health and Human Services

Population data: Four comparison states, interpolation between 1980 census figures and 1985 projections provided by Market Statistics, adjusted to national totals estimated by the Census Bureau; Minnesota, The Minnesota Health Department totals for ages 15-19, divided into 15-17 and 18-19 in proportion to the population estimates as described above.

PLAINTIFFS' EXHIBIT NO. 41

EXCERPTS FROM DEFENDANTS' ANSWERS TO
PLAINTIFFS' FIRST SET OF INTERROGATORIES

INTERROGATORY NO. 20: State the number of county and district court judges who sit in the courthouse in each county; specify separately:

- a. Days of the week when a judge is sitting at the courthouse;
- b. Hours of the day when a judge is sitting at the courthouse;
- c. Days or times when no judge is sitting at the courthouse;
- d. Where a litigant or attorney would have to travel for a hearing on those days or times when no judge is sitting at the courthouse.

ANSWER:

First Judicial District. Carver (2), Dakota (5), Goodhue (1), LeSueur (1), McLeod (1), Scott (2), Sibley (1).

- a. Monday-Friday.
- b. 8:30 A.M. to 4:30 P.M. in Carver County and 8:00 A.M. to 4:30 P.M. in all other counties.
- c.-d. There are rare isolated dates when there may be no judges "sitting" in a given county. The five district court judges travel irregularly through the seven counties. County court judges rarely travel outside their counties. On those occasions litigants or attorneys would travel to the nearest other county.

Second Judicial District. Ramsey County has one judge and three referees presiding over its Juvenile Court.

- a. Monday-Friday.
- b. 8:30 A.M. to 4:30 P.M.

- c.-d. Absences occur only due to a judge's or referee's illness or vacation. Temporary assignments are made to fill such vacancies.

Third Judicial District. Each of the 11 counties is served by one or more county court judges. There are six district court judges.

- a. Monday-Friday.
- b. One hour every day by county court judge and 1½ days a month by district court judge in Dodge County. In addition, a county court judge serves Dodge County all day on Wednesday and Thursday every other week. From 8:00 A.M. to 4:30 P.M. in Fillmore and Waseca Counties. From 8:00 A.M. to 4:00 P.M. in Wabasha County. In all other counties the schedule is 8:00 A.M. to 5:00 P.M.
- c. See answer b. above.
- d. On those rare occasions in Dodge County, the litigant would travel to the nearest adjacent county.

Fourth Judicial District. There are 17 county court judges and 20 district court judges in Hennepin County.

- a. Monday-Friday.
- b. 8:00 A.M. to 4:30 P.M.
- c. None (except non-business hours).
- d. Not applicable.

Fifth Judicial District. There are sixteen county court judges who sit regularly in the fifteen counties, which are divided into five sub-districts. There are seven district court judges who rotate regularly among the fifteen counties.

- a. Monday-Friday.
- b. From 8:00 A.M. to 5:00 P.M. in Blue Earth, Brown, Cottonwood, Lyon, Nobles, and Rock Counties. From 8:30 A.M. to 5:00 P.M. in Faribault, Martin,

Murray and Watonwan Counties. Martin County also has a county court judge sitting from 7:00 to 9:00 P.M. every Wednesday. From 8:30 A.M. to 4:30 P.M. in Jackson, Lincoln, Pipestone, and Redwood Counties. From 9:00 A.M. to 5:00 P.M. in Nicollet County.

- c. Not applicable.
- d. Not applicable.

Sixth Judicial District. There are six district court judges, eight county court judges and six judicial officers serving the four counties in this district. Their schedules vary.

- a. Monday-Friday in Carlton and St. Louis (Duluth, Hibbing and Virginia) Counties. Schedules in Cook and Lake Counties vary.
- b. Typically 8:30 A.M. to 4:30 P.M. in all locations.
- c. Seldom.
- d. Nearest neighboring county or county branch (e.g., Ely, Hibbing or Virginia in St. Louis County).

Seventh Judicial District. There are four district court judges who preside over the ten counties. In addition there is one county court judge in every county except Clay and Otter Tail (which have two each) and Stearns (which has four).

- a. Monday-Friday for every county except Mille Lacs County, which has a judge every Monday, Wednesday and Friday.
- b. 8:00 A.M. to 4:30 P.M. in all counties.
- c. See answer a. above.
- d. Nearest other county (would only occur in Mill Lacs County).

Eighth Judicial District. There are three district court judges and eleven county court judges serving the thirteen counties on a shared or rotating schedule.

- a. Monday-Friday in all counties but Big Stone (Tuesday, Wednesday, Friday), Grant (Tuesday, Thursday), Renville (Monday, Tuesday, Wednesday, Friday), and Traverse (Monday, Thursday) Counties.
- b. 8:00 A.M. to 4:30 P.M.
- c. See answer a. above.
- d. On those days when a judge is not available in some county, he usually is available in the evening. In cases where a judge is unavailable for a 24-hour period, the litigant would travel to the nearest other county.

Ninth Judicial District. There are six district court judges and fourteen county court judges serving the seventeen counties on a shared and rotating basis.

- a. Monday-Friday in all counties except Aitkin (almost every day), Clearwater (Monday, Thursday), Kittson (Wednesday, Thursday), Koochiching (almost every day), Lake-o-Woods (Thursday), Mahnomen (Tuesday, Thursday), Marshall (every other day), Norman (Monday, Thursday, Friday), Pennington (Tuesday, Wednesday, Thursday, Friday), Red Lake (Monday), and Roseau (Monday, Tuesday, Friday).
- b. From 9:00 A.M. to 4:00 P.M. in Aitkin, Marshall, Pennington, Polk, Red Lake, and Roseau Counties. From 8:00 A.M. to 4:30 P.M. in Beltrami County. From 8:30 A.M. to 4:00 P.M. in Cass and Crow Wing Counties. From 9:00 A.M. to 3:00 P.M. in Clearwater, Hubbard, Kittson, Koochiching, Lake-o-Woods, Mahnomen, and Norman Counties.
- c. See answer a. above.
- d. The nearest adjacent county.

Tenth Judicial District. Every one of the eight counties is served by one county court judge except Anoka County, which has five, and Washington County, which has three. In addition

there are six district court judges who serve these counties on a shared and rotating basis.

- a. Monday-Friday for all counties except Kanabec County, which has a county court judge every Tuesday and Thursday and a district court judge on other days each week irregularly. In addition, Sherburne County has a county court judge every Monday, Wednesday and Friday and a district court judge on other irregular days. Finally, Wright County has a county court judge every Tuesday and Thursday and a district court judge on other irregular days.
- b. From 8:00 A.M. to 5:00 P.M. in Anoka County. From 8:00 A.M. to 4:30 P.M. in Chisago, Isanti, Pine, Washington and Wright Counties. From 8:00 A.M. to 4:30 P.M. in Kanabec County. From 8:30 A.M. to 5:00 P.M. in Sherburne County.
- c. See answer a. above.
- d. Nearest adjacent county.

INTERROGATORY NO. 21: State whether any of the judges identified in the preceding interrogatory preside over their courts on a part-time basis, and whether they change courts. If answered in the affirmative, indicate the schedules of those judges.

ANSWER:

First Judicial District. All are full-time. The five district court judges travel on an irregular basis throughout the district. Occasionally, county court judges are assigned to other counties temporarily to fill needs as they arise.

Second Judicial District. The juvenile court judge and referees are all full-time and do not change courts.

Third Judicial District. Every county has at least one full-time county court judge. The full-time district court judges usually are assigned to the following schedule: Dodge County, 1½ days per month; Fillmore County, 1½ days per month; Freeborn

County, 5 days per week; Houston County, 3 days per week; Mower County, 5 days per week; Olmsted County, 5 days per week; Rice County, 4½ days per week; Steel County, 3 days per month; Wabasha County, 3 days per month; Waseca County, 3 days per month; Winona County, 4 days per week.

Fourth Judicial District. All are full-time and do not change courts.

Fifth Judicial District. See answer to Interrogatory No. 20. In addition, a judge is assigned from 9:00 A.M. to 5:00 P.M. the first and third Wednesdays of each month in the Springfield and Sleepy Branches of Brown County Court. County court judges from Nobles and Pipestone Counties also occasionally share responsibilities in Rock County as the calendar dictates. On an irregular basis the sharing configuration of counties among county court judges is as follows: district A (Lincoln, Lyon and Redwood), district B (Brown, Cottonwood, Nicollet and Watonwan), district C (Blue Earth), district D (Faribault, Jackson and Martin), and district E (Murray, Nobles, Pipestone and Pock).

Sixth Judicial District. There is not a fixed schedule. All county and district court judges may sit in any court or branch thereof. All are full-time.

Seventh Judicial District. The schedule of rotation varies and has not been finalized for 1982. Sample copies of the 1981 schedule are available upon request. The eight counties are divided into the following three county court groups for rotation purposes: Becker, Clay and Otter Tail; Benton and Stearns; and Douglas, Todd and Wadena.

Eighth Judicial District. See answer to Interrogatory No. 20. All judges are full-time.

Ninth Judicial District. See answer to Interrogatory No. 20. There are no set schedules; rotations depend upon needs of calendars in each county. All judges are full-time.

Tenth Judicial District. Same as answer for Ninth Judicial District. In addition, the Minnesota Supreme Court was admin-

istratively assigned one county court judge from Mills Lacs in the Seventh Judicial District to serve Kanabec County as needed (presently about two days each week).

* * * * *

INTERROGATORY NO. 24: State which courts in Minnesota have set up procedures designed to process the abortion petitions of Minnesota. Describe in detail such procedures and attach written copies of the same. Specify whether those courts of one county may hear petitions of residents of a different county.

ANSWER: All courts have adopted some procedures. Those of the Tenth Judicial District are not yet formalized beyond use of guidelines provided by the Minnesota Attorney General's office. See, Affidavits and exhibits of Karen L. Ives, dated Aug. 26, 1981; Michael D. Calvert, dated Aug. 26, 1981; and Gregory Date, dated Aug. 25, 1981. Those other courts which have put their procedures into written or printed form are attached as Exhibits E-I hereto; see Answer to Interrogatory 29, *infra*.

INTERROGATORY NO. 25: State which courts in Minnesota have set up procedures designed to process the abortion appeals of Minnesota. Describe in detail such procedures and attach written copies of the same. Specify whether those courts of one county may hear appeals of residents of a different county.

ANSWER: See answer to Interrogatory No. 24.

INTERROGATORY NO. 26: State the times for regularly scheduled abortion hearings within Hennepin, Ramsey, and St. Louis counties.

ANSWER:

1. *Hennepin County.* Based on the court's experience through December of 1981, it was determined that the demand usually necessitated scheduled hearings only four days each week. Thus, the hearings are

scheduled at 11:45 A.M. every Monday, Tuesday, Thursday and Friday. In emergencies, hearings may be held on Wednesday evenings or on weekends.

2. *Ramsey County.* Regularly scheduled hearings are at 4-6:00 P.M. every Monday and Wednesday. Other hearings are scheduled by appointment to accommodate work and school schedules.
3. *St. Louis County.* There is not a regular schedule. All hearings are set as needed and upon the request of the minor or her counsel.

INTERROGATORY NO. 27: Identify and describe the appropriate person by whom inquiries concerning abortion petitions and/or appeals are initially answered; include the name, address and telephone number of any such person(s).

ANSWER:

1. *Hennepin County.* Anyone at the Child protection Hotline (612-348-3552) in Minneapolis, or with the Public Defender's Office. Counsel and guardian ad litem are appointed without a prior court order. They then call the Clerk of Juvenile Court (348-6634) to schedule a hearing.
2. *Ramsey County.* Most initial contacts have been from a St. Paul abortion clinic where the minor has gone. They are referred to the Public Defender's office which has a 24-hour phone service (612-298-5797).
3. *St. Louis County.* Any one of three offices: Public Defender's office, 1726 London Road, Duluth, 218-728-4425; Midwest Health Center for Women, 611 Medical Arts Building, Duluth, 218-727-3352; St. Louis County Probate Court Clerk's Office, 301 Courthouse, Duluth, 218-723-3488.
4. *Anoka County.* Jean Stack, Anoka County Courthouse, Anoka, 612-421-4760 (Ext. 1355).

5. *Washington County*. Juvenile Section, Washington County Courthouse, Stillwater, 612-439-3220.
6. *All other counties*. Initial contacts are with clerks of respective county courts and/or public defender.

PLAINTIFFS' EXHIBIT NO. 56

MINNESOTA PROGRAM FOR BATTERED WOMEN,
1985 UPDATE

INTRODUCTION

This report is an update of the 1979 Report and the subsequent updates to the Legislature submitted by the Department of Corrections on the Program for Battered Women. The initial report described steps taken by the Department of Corrections to implement the Program for Battered Women; the next two reports detailed the expansion of the Program in the 1980-81 biennium and the maintenance of the Program in the 1982-83 biennium. This report will discuss current funding and new directions taken by the Program for Battered Women. More specifically, this report will:

- present the Minnesota Advisory Council on Battered Women and Department of Corrections recommendations for continuation of the Program.
- provide information on the 17 shelter programs,
- provide information on the 22 nonshelter service programs.

Based on the professional experience of the many individuals involved in providing services to battered women, it is believed that men assault their partners for two primary reasons. First, many men believe that they must maintain control of their partners which often includes the use of violence. This behavior most likely results from growing up in homes where violence is prevalent and where the children are not provided with alternative patterns to cope with basic human emotions such as anger and frustration. Second, there are few societal repercussions to the violent partner.

The public as well as professionals often assume that women must, to some degree, encourage their own battering by their behavior. However, it is now becoming generally recognized that if a man has not learned alternate ways of dealing with his

anger, he will most likely use violence against his partner regardless of her behavior. This is not to say that women do not participate in conflicts that occur in any relationship, it is to say that only in those relationships involving a person who uses violence to express anger will conflicts result in battering.

Data collected from law enforcement officers, human service providers, medical personnel and shelter programs in Minnesota indicate that:

- an estimated 187,115 incidents of assault on women by their partners have occurred in Minnesota since mandatory reporting began in 1978, an average of about 31,200 incidents a year,
- domestic violence has been reported in every county of the state,
- the majority of women who were assaulted were married to and living with their assailant at the time of the assault,
- women who were assaulted range in age from 12 to 96 years.

A complete analysis of data collected from these sources is available in the Minnesota Department of Corrections, Program for Battered Women Data Summary Reports.

MINNESOTA PROGRAM FOR BATTERED WOMEN, 1985 UPDATE MN. DEPT. OF CORRECTIONS

The passage of the legislation for battered women in 1977 and the subsequent creation of the state Program in the Department of Corrections provided the incentive to initiate or expand local organizations for battered women. With the aid of the Advisory Council, the Program for Battered Women continues to support local programs through financial and technical assistance.

The Program for Battered Women and funded organizations also educate professionals on the problems and needs of battered women through workshops and speaking engagements.

As professionals have begun to examine their own interaction with abused women, they are joining with grassroots organizations to effect changes within the systems from which battered women seek help so that services may be more effectively delivered.

Finally, battered women's programs, through their educational effort, have reached thousands of men and women in violent relationships giving them the motivation to seek help for what was once considered a "family matter". These efforts have resulted in increasing numbers of women and men turning to the system for assistance.

The state of Minnesota has taken a lead in recognizing the devastating effects of battering on women and on the family structure. (See Appendix A for a list of resources available to battered women in Minnesota and Appendix B for maps showing the locations of funded programs.) Once a "hidden crime", battering has come to be recognized as perhaps the most frequently committed violent crime in the state. It is believed that children who grow up in violent homes are likely to become victims or abusers themselves as adults. Prisons, state hospitals, juvenile institutions and treatment centers are crowded with men and women who grew up with violence in their homes. Although to date this Program may have reached only a small percentage of those in violent homes, it continues to challenge society to accept the responsibility of openly confronting the problem of family violence.

PROGRAM IMPLEMENTATION

The following are the major steps taken by the Department of Corrections to implement the Program for Battered Women during the 1984-85 biennium:

- continuation of the Minnesota Advisory Council on Battered Women.

The role of the Council on Battered Women is to act as the advisory body to the Commissioner on issues pertaining to the implementation of legislative mandates relating to battering. The Council is a working committee that has actively participated in all phases of implementing legislation pertaining to battered women.

PLAINTIFFS' EXHIBIT NO. 57

Adolescent Abortion:

Psychological and Legal Issues

Gary B. Melton

University of Nebraska-Lincoln

Report of the Interdivisional Committee on Adolescent Abortion, American Psychological Association.

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Congress has amended Title X of the Public Health Service Act to require family planning clinics receiving federal funds to "encourage family participation."⁵⁰ The Reagan administration's interpretation of this language to require parental notice⁵¹—the "squeal rule"—stimulated a storm of protest, including 60,000 comments from individuals, 1,200 letters from organizations, thousands of form letters, and hundreds of petitions containing thousands of signatures. Two federal circuit courts ultimately enjoined enforcement of the rule, as inconsistent with Congress's intent to increase minors' access to family planning services.⁵²

Summary. Although the Court is far from single-minded in its approach to adolescent abortion cases,⁵³ it is clear that the majority find ample basis for age-based regulation of abortion. The majority perceive pregnant minors to be likely to make poorly reasoned decisions, absent involvement by parents or other third parties (participants in the decision other than the minor and her physician). Moreover, the Court assumes great risk of severe and permanent emotional scars of the decision to abort, when the decision is made in adolescence. We turn now to an examination of the validity of the Court's assumptions.

Psychological Evidence

Vulnerability. In terms of medical risks, the Chief Justice's sanguine view of pregnancy carried to term and his fear about the dangers of abortion in adolescence are clearly misplaced. Teenagers are no more likely than adult women to suffer complications as a result of abortion. Moreover, the mortality rate from pregnancy *continuation* is five times higher for teenagers than the mortality rate associated with adolescent abortion—(Cates, 1981). This finding is consistent with research showing that women carrying unwanted pregnancies—often the case in adolescent pregnancies (Russo, this volume)—are at special risk for medical complications in pregnancy (Cates, 1982).

Research on psychological risks is less clear and less extensive. Research on the psychological effects of abortion has frequently been marked by substantial attrition in follow-up, inconsistency of definition, and other methodological flaws (Adler, 1976; David & Friedman, 1973; David, Rasmussen, & Holst, 1982). Although relatively recent studies have tended to be better designed and less obviously subject to investigator bias (Adler, 1979), there still are few studies which have isolated the effects of age on response to abortion (Adler & Dolcini, this volume).

Nonetheless, there is sufficient evidence to refute the Court's assumption that the effects of abortion on adolescents are "grave" and "markedly more severe" than the effects on adults (see generally Adler & Dolcini, this volume). Although it is undeniable that the decision whether to abort is stressful, it is also clear that the model response to abortion itself is relief (Adler & Dolcini, this volume; Olson, 1980; Osofsky, Osofsky, & Rajan, 1973). Although there is some evidence for relatively more negative effects on adolescents (e.g., Bracken, Hachamovitch, & Grossman, 1974), the magnitude of age differences is small, and reactions are generally mild. Although the somewhat more negative responses of adolescents may be related to developmental issues, the predominant factors seem to be ones related to adolescents' social situation rather than developmental differences per se (e.g., tendency to delay seeking an abortion; coercion by mother or others to have an abortion; see

Adler & Dolcini, this volume). Regardless, severe responses are very rare. In an analysis of health registry data in Denmark for 1975, David, Rasmussen, and Holst (1982) found only five admissions to psychiatric hospitals of females aged 19 or under who had had an abortion within the past three months, a rate of 11.4 psychiatric admissions per 10,000 abortions.

That abortion is frequently a relatively benign alternative for pregnant adolescents is unsurprising when one considers the social consequences of becoming a teenage parent, all of which carry their own psychological effects (see generally Marecek, this volume; Scott, 1984). Adolescent parenthood typically results in lower educational attainment than for peers of similar socioeconomic background and academic/vocational aspirations prior to the pregnancy (Card, 1977). Adolescent mothers also find their ultimate occupational attainment, income, and economic self-sufficiency (i.e., ability to stay off public assistance) to be lower than that achieved by peers who delayed childbearing (Card, 1977; Marecek, 1979). Not surprisingly, marriages resulting from adolescent pregnancies tend to be unstable, and females who begin childbearing at an early age ultimately have more children than peers who delay childbearing (see Marecek, this volume, for review).

Ultimately, unwanted children themselves may be the victims of restrictive abortion policies. Although findings are mixed and sparse, children born to adolescent mothers may be at increased risk for a variety of psychological problems, including poor intellectual and academic performance, low self-control, and passivity (Marecek, this volume). Most directly on point, a longitudinal study of children born to women denied an abortion in Czechoslovakia (David & Matejcek, 1981) has shown that, in their teen years, unwanted children experience a relatively high incidence of referrals for mental health services, relatively low educational attainment, and relatively high maternal emotional rejection (especially of boys). David and Matejcek concluded that, "[w]hile there is evidence in many individual cases of an eventual compensation for the original rejection on the part of the mother or both parents, the finding that group differences between the matched children are still apparent after 16-18 years of family life, and that these differ-

ences have actually widened, suggests that 'unwantedness' during early pregnancy constitutes a not negligible risk factor for the subsequent life of the child" (p. 34).

Incompetence. Just as there is no evidence for marked negative psychological effects of abortion in adolescence, there is no reason to believe that adolescents will be less competent in decision making about abortion than adult women. There is now a substantial literature showing that adolescents do not differ from adults in their ability to understand and reason about treatment alternatives (see, for reviews, Grisso & Vierling, 1978; Melton, 1981; Melton, Koocher, & Saks, 1983; Melton, 1984a, pp. 463-466; Weithorn, 1982; see also Weithorn & Campbell, 1982).

However, as the Supreme Court has noted,⁵⁴ there are major factors to be considered in making a decision about abortion other than the medical risks and benefits involved in terminating or carrying a pregnancy. The social and moral dimensions of the decision are sufficiently unusual and the importance of the problem sufficiently great that research is needed with a specific focus on age-related changes in competence to consent to abortion. At present, there is only one such study. In a comparison of minors and adults at three pregnancy clinics in California, Lewis (1980) found few age-related differences in knowledge of law or factors affecting the decision whether to abort, relinquish the baby, or keep the baby. Minors did not differ from adults in "the number of people consulted or expected to be consulted; the tendency to consult the boyfriend, the parents, or members of the peer group; the expectation that conflicting advice will be received from different sources; or the expectation that advice will favor continuation of pregnancy vs. abortion" (Lewis, 1980, p. 448). The major differences identified were ones which might be expected to follow logically from differences in minors' and adults' social status and economic situation. Minors were more likely than adults to perceive their decision as externally determined (e.g., the product of parental wishes), and they were less likely to expect to consult a professional about the decision (cf. Lewis, 1981).

If "maturity" in the abortion context means something other than the ability to understand and reason about factors relevant

to the decision, then determination of the typical level of maturity of pregnant adolescents will be more difficult and value-laden. As some commentators (e.g., Mnookin, 1985) have noted, conservatives may regard any minor who becomes pregnant as "immature," and liberals may perceive any unmarried pregnant teenager who seeks an abortion as demonstrating a "mature" response to the situation. Assuming, though, that maturity may refer to general psychological competence rather than specific competence, it is noteworthy that comparisons of personality functioning between adolescents who abort and those who carry to term generally show more adaptive, healthier functioning in the former group (Dixon, 1977; Falk, Gispert, & Baucom, 1981; Kane & Lachenbruch, 1973).

Family integrity. The Supreme Court has assumed that the involvement of parents in minors' decisions about abortions will usually be helpful. There is in fact evidence that the probability of a positive emotional response to abortion increases when adolescents feel supported by their parents in their right to make a decision and in the decision itself (Bracken, Hachamovitch, & Grossman, 1974; see Adler & Dolcini, this volume). Pregnant adolescents who decide to carry to term often find that they overestimate the negativity of their parents' reactions to their pregnancy (Furstenberg, 1976).

Even without legal requirements to do so, pregnant adolescents *do* often consult their parents, although commonly not until after discussions with male partners and girl friends. Among minors who carry to term, parents are commonly among the last confidants to be informed of the pregnancy (Allen, 1980). Similarly, in a sample of minors attending an abortion clinic in Minneapolis/Saint Paul, 37% informed their mothers, and 26% informed their fathers, but 71% had talked with their best girl friends about the pregnancy (Clary, 1982). In a Michigan sample of pregnant teenagers, few (14%) sought advice from parents when they first suspected that they were pregnant; most consulted with their male partner or girl friend (Rosen, 1980). Once pregnancy was confirmed, 57% involved their parents in the decision. The figures for adolescents who

decided to abort and those who decided to carry the pregnancy to term were similar.

Those minors who do consult their parents prior to an abortion tend to be those for whom parental support might be expected to be most important and who are most at risk for negative psychological effects of the procedure (Clary, 1982; Torres, Forrest, & Eisman, 1980). Mothers also seem to have greater influence when their daughters are experiencing substantial conflict about the decision (Rosen, 1980).

In Clary's (1982) sample, the most common reason for not informing mothers about the pregnancy and impending abortion was concern for the parent's feelings (i.e., disappointment, embarrassment), but about 30% failed to inform their parents because they feared negative results (i.e., physical punishment, retaliation). Minors were especially unlikely to inform their parents if they believed that one or both parents held strongly negative attitudes toward abortion.

It is impossible to know whether the adolescents' perceptions of the likelihood of hostile reactions from their parents were accurate. The evidence that adolescents who decide to carry to term often overestimated the negativity of their parents' probable reaction (Furstenberg, 1976) may not reflect the reality for adolescents who decide to abort without informing their parents. In some sense, however, it makes no difference. The *perception* of probable hostile—or even just disappointed—reactions in their parents might be enough to increase pregnant minors' delay in seeking medical attention, if parental notification were required. Delay in seeking abortion is already a major problem with minors (Bracken & Kasl, 1975; see Russo, this volume, for review); such delay substantially increases the medical and psychological risks associated with abortion (Bracken, Hachamovitch, & Grossman, 1974; Cates, 1981; Osofsky, Osofsky, Rajan, & Spitz, 1975).

Whatever the accuracy of teenagers' fears, the idyllic picture of American family life portrayed by the Supreme Court clearly does not match contemporary reality (Melton, 1984b). For example, in Clary's (1982) study, one-third of the minors seeking abortion came from single-parent families, and 13% more declined to inform their fathers because "we don't get along."

Even under substantially less stressful conditions than a daughter's announcement that she is or may be pregnant, sexuality is usually not a comfortable topic for parents and daughters. Among a stratified random sample of mothers of 10- to 18-year-olds in Cincinnati, only 31.5% reported giving their daughters reading material about sexuality, while 36.7% reported having explained intercourse, and only half had discussed birth control (Rothenberg, 1980; see also Fox & Inazu, 1980; Furstenberg, 1971). Instead, adolescents report receiving most of their knowledge about sex from friends and teachers. As one of us has noted elsewhere, "[i]t would be surprising to find that this view of sex as a forbidden topic [in the home] should suddenly turn toward open and detailed discussion of the options available to a pregnant adolescent" (Melton, 1983b, p. 471).

The distance between parent and adolescent in matters of sexuality is not entirely unhealthy. Maintenance of privacy—including privacy of information about personal matters—is an important aspect of individuation, a principal developmental task of adolescence (Melton, 1983b; Wolfe, 1979). Although it is unfortunate when adolescents cut themselves from sources of counsel about private decisions, it is equally unfortunate when authorities overlook adolescents' needs for privacy. In that regard, confidentiality is the major reason for choice of family planning clinics by adolescents, especially whites (Zabin & Clark, 1983).

Finally, the Court's view of the family may underemphasize the real power differentials within families. As a matter of law and of social, psychological, and economic realities, adolescents are rarely free to overcome the expressed will of their parents. Justice Stevens's contention that "a woman intellectually and emotionally capable of making important decisions without parental assistance also should be capable of ignoring any parental disapproval"⁵⁵ does not comport with common sense. The Court majority has recognized this point by requiring an alternative of judicial review *before* parental consent is sought.⁵⁶ Nonetheless, the Court's approval of parental notice requirements, at least for some minors, seems implicitly to suggest a belief that minors could be reasonably expected to seek

approval for an abortion through judicial review or other procedure established by the state, even when parents object to the plans for the abortion.

Summary. Although the research is scant on some issues, the available evidence raises substantial doubt about the validity of the premises underlying the Supreme Court's approval of age-based regulation of abortion. Contrary to the Court's assumption of marked vulnerability of minors who obtain abortions, age differences in response to abortion are small, and, in any event, most adolescents who obtain abortions report relief. Severe emotional reactions are very rare. On the other hand, deleterious psychosocial effects of many minors who complete their pregnancy are well documented. By the same token, the research available on consent to medical treatment and the single study currently available on consent to abortion give no reason to doubt adolescents' competence to make decisions about continuation of pregnancy. Additional research focused on the special aspects of the abortion decision is needed, however. Finally, although the Court's view of the helpfulness of parents of pregnant adolescents is undoubtedly true in many cases, the idyllic view of the family ignores the many variations in family life. Many teenagers seeking abortions believe that informing their parents, some of whom are staunch foes of abortion, would result in retaliation and effectively block access to abortion. The literature on parent-adolescent communication about sexuality also gives reason to doubt the helpfulness of many parents in advising their children about decisions regarding pregnancy.

The Effects of Parental Notice Requirements

Unless it actually results in parental consultation, a parental notice requirement is a meaningless hurdle delaying or obstructing minors' access to abortion. Moreover, except insofar as the purpose is to protect family integrity (i.e., parental control) per se, a parental notice status would be constitutional only if it actually results in better reasoned abortion decisions. Otherwise, no significant state purpose would be served.

There are no outcome studies available on notice statutes of the sort upheld in *Matheson*.⁶⁰ Nonetheless, there are several reasons to doubt the efficacy of the notice statutes. As we have already noted, it seems naive to assume that parental notice is likely to result in open and reasoned discussion of all of the options available to a pregnant adolescent. Moreover, while most parents might be supportive, it is also obvious that some parents will be retaliatory or obstructionist, especially if they are strongly opposed to abortion. Even if such a reaction would not actually occur, many pregnant minors clearly *perceive* that it would. The tragic irony is that parental notice statutes may actually heighten the medical and psychological risks for minors by stimulating additional delay (cf. Cates, 1981; Zabin & Clark, 1981) and inhibiting reasoned analysis of the various alternatives.⁶¹

Effects of Judicial Alternatives

In response to the plurality's suggestions in *Bellotti v. Baird*,⁶² a number of states have enacted parental notice⁶³ or consent⁶⁴ statutes which provide the option of "bypassing" parents and seeking the approval of an abortion by a judge. As already noted, these statutes require a two-level inquiry. First, if the judge finds the minor to be mature, the minor's privacy must be respected. Second, if the minor is immature, the judge must determine whether an abortion would be in her best interest.

As a matter of practice, proceedings have turned out to be pro forma rubber stamps of minors' decisions. Most minors are found to be mature, and, perhaps unsurprisingly, abortions are almost always found to be in the best interest of immature minors. In Massachusetts between April 1981, when the *Bellotti*-style statute took effect, and February 1983, about 1,300 minors sought an abortion through the judicial bypass procedure (Mnookin, 1985). In about 90% of cases, minors were found to be mature. In the remaining cases, all but five petitioners' requests for abortions were approved, according to a best-interest standard. In three of those cases, the trial court's decision was overturned on appeal. In one case, the judge

invited the minor to seek approval from another judge, who granted the petition. In the remaining case, the minor decided to go to a neighboring state for the abortion. Similar findings have been reported in Minnesota, where only five petitions were denied from 1981 to 1983 (Donovan, 1983).

About three-fourths of minors obtaining abortions in Massachusetts obtain parental consent without going to court (Mnookin, 1985). It is estimated that, prior to the enactment of the statute, one-third to one-half of pregnant minors consulted their parents before having an abortion. However, it is unclear that the statute has in fact resulted in an increase in parental consultation. There has been a marked drop in the number of abortions performed on minors in Massachusetts, apparently as a result of minors choosing to go to neighboring states and bypass the judicial bypass procedure (Donovan, 1983; Mnookin, 1985). An analogous drop of 33% was observed in Minnesota during the first full year of its judicial bypass statute (Donovan, 1983). It is unknown whether the statutes are increasing the numbers of unwanted children born to teenagers.

There is evidence to suggest that the statutes are increasing delay in obtaining abortions and, therefore, increasing risk to minors (Donovan, 1983). Generally, it takes several days to schedule a hearing. In some instances, minors may have to travel several days to obtain access to the courts, because many judges who are opposed to abortion have recused themselves. Thus, there is a *de facto* waiting period with the necessity of minors' missing more school and, therefore, greater difficulty in maintaining privacy.⁶⁵ Moreover, the process—real or perceived—of obtaining a lawyer and going before a judge may be sufficiently formidable to deter many minors from promptly seeking a pregnancy test and, subsequently, an abortion.

No research has systematically examined the psychological effects of the judicial procedures on the minors who go through them. Most of the pregnant minors who choose the alternative of going to court are older adolescents (ages 16 and 17), who would be most likely to be already competent to consent to an abortion (see generally Melton, Koocher, & Saks, 1983). It is plausible that the process of preparing for court helps also to prepare for the abortion itself (cf. Meichenbaum, 1977, on

stress inoculation). However, it is not intuitively clear that rehearsal for court increases the thought and care applied to the decisionmaking process itself (Donovan, 1983). Also, although lawyers and clerks of courts have worked hard in some jurisdictions to minimize the trauma of going to court, there still is cause to wonder whether the judicial procedure does not *heighten*, instead of diminish, the psychological risks attached to abortion for minors. Some anxiety, embarrassment, and even sense of degradation about discussing personal matters with a lawyer and the judge would be unsurprising. It is possible that these issues are least significant, although still present, in jurisdictions which conduct abortion hearings in juvenile or family court (Donovan, 1983).

Research is needed to evaluate the effects of *Bellotti*-style statutes more extensively than has occurred thus far. However, the evidence available suggests that they have harmed, rather than helped, minors considering an abortion. Nothing has yet been uncovered to contradict the view of Justice Stevens and three other justices:

It is inherent in the right to make the abortion decision that the right may be exercised without public scrutiny and in defiance of the contrary opinion of the sovereign or other third parties. . . . As a practical matter, I would suppose that the need to commence judicial proceedings in order to obtain a legal abortion would impose a burden at least as great as, and probably greater than, that imposed on the minor child by the need to obtain the consent of the parent. Moreover, once this burden is met, the only standard provided for the judge's decision is the best interest of the minor. That standard provides little real guidance to the judge, and his decision must necessarily reflect personal and societal values and mores whose enforcement upon the minor—particularly when contrary to her own informed and reasonable decision—is fundamentally at odds with privacy interests underlying the constitutional protection accorded to her decision.⁶⁶

PLAINTIFFS' EXHIBIT NO. 60

Transcription of Hearing on Venue
Amendment to M.S. § 144.343(6)

SEN. WALDORF: Yes, I would be happy to explain the amendment. It changes the venue from county to judicial district. There are a couple of important reasons for that. On the initial draft of this legislation which I was not part of, it has been in the House, I don't think sufficient ?? has been given to the fact that imposing county venue is somewhat restrictive in that two problems occur; one is availability in a court for the hearing process as well as the potential difficulty with anonymity. And so Mr. Chairman, I think the judicial district boundaries are more appropriate and would like to add the amendment.

JACKIE SCHWEITZ: But even in its weakened form, the law has been credited with saving the lives of unborn children in this state, as young women consult with their parents and decide not to choose abortion. Abortion statistics for 1983 will not be available from the Minnesota Center for Health Statistics for another month or more, but its reports from the previous year indicated that, after several years of relative stability, the rate of abortions performed on teenagers in Minnesota dropped 29% between 1980 and 1982. The birthrate for this same group was down 7% during this same time frame. The statistics support the observation of an abortion counselor quoted in the December 1982 of Family Planning Perspectives that Meadowbrook Women's Clinic, the state's oldest and largest abortion clinic, had observed that the number of teenagers seeking abortion there, had fallen by one third since the law went into effect, and similar statements made since then by other abortion clinic operators periodically quoted in these articles.

KATHERINE WELSH: These problems are as follows: The financial responsibility for implementation of this amendment in 87 counties, the provision of counseling services in


a non-biased manner which would address all alternatives available to minor women. The court in our county has a report to the court that helps them determine the maturity of minor women. Some of the questions contained in this report, regard to post-abortion care, physician's liability, and alternatives available for a non-planned pregnancy. How and by whom would these counseling services be provided? The problem of confidentiality is and always will be, encountered when dealing with smaller counties and smaller cities. We must remember that we are not dealing with delinquent women, but daughters of our friends, relatives, neighbors and public figures. For example, in our county, we had a young woman who came into chambers only to discover that the clerk was her next door neighbor that she baby-sat for. We have another one that we had to come in and use the back entrance and use the freight elevator and have the public defender interview this young woman in the bathroom on the third floor of the courthouse because her mother worked in the probation office across the hall from the chambers. Or we also had a public defender who denied access to this young woman because he was uncomfortable because it was the daughter of his partner in his law firm. We're talking about small communities now. Time frame? The parent notification law is very explicit in stating minors must be heard within 24 hours. Through my experience since August 1, 1981, we have never heard a case heard (?) other than from 8:30 to 4:30, Monday through Friday. We have only had one hearing out of 200 that was on a Saturday. We are presently and will not in the future be comfortable with this law for minor women. It is my opinion that it is just another burdensome step for women who are already being harassed and are seeking abortion as an alternative. From personal experiences, I have dealt with the judges in eight counties. One of the judges told me in no uncertain terms that he *could give permission for a young woman to have an abortion in this court. I give you this statement only to point out that the judge did not understand his responsibility to the law and his blatant disrespect for it. I

would like to know what assurance we're going to get for these young women that they will be heard justly. I have documentations and observations that might make you feel more comfortable against this amendment. Most of the minor women that we have dealt with are 17 year of age. Observations of our studies also show women who seek abortions are more mature than the women who decide on other alternatives. I also have documentation that indicates in our clinic, in 1983, we dealt with 105 minors that satisfied the parent notification law through other means—other than the court bypass system, and we only had 58 that used the court bypass system. And I am servicing 24 counties in northern Minnesota, and these are the counties all included. In 1984, we found that the same for the minors, and I think that you have these forms. I would like to point out that it's not cost effective to set up this system in 87 counties. We must remind all of you that if you feel uncomfortable with the bill as it is, then you must be prepared to allocate the funds to enable the counties to give these services. So far it is common knowledge that indeed the private clinics are incurring the cost of providing these services, because as we all know, there were no state funds allocated in the passage of the parent notification in 1981. It is also common knowledge that the private clinics can and will not be able to provide these services in 84 counties. We are not alone in our position. I think you have some letters, one of them that support our position is the Minnesota Association for Court Administrators, and their letter is dated April 1st.

EXCERPTS FROM PLAINTIFFS' EXHIBIT 68

PAMPHLET FROM MEADOWBROOK
WOMEN'S CLINIC ON SECOND TRIMESTER ABORTION

Second Trimester Abortion

 **Meadowbrook Women's Clinic**
6490 Excelsior Blvd. Suite E510
St. Louis Park, Minnesota 55426
(612) 925-4640

APPOINTMENT REQUESTS:
Monday - Friday until 9 PM
Saturday - 9 AM - 5 PM

PROCEDURE: Dilation and Evacuation, a method used for second trimester abortions 14 to 21 weeks L.M.P.

ULTRASOUND: An Ultrasound examination, is a painless diagnostic test, which will determine how long you have been pregnant. The test is similar to X-Ray but uses sound waves rather than radiation.

LAMINARIA: Laminaria is a material which, when inserted into the cervix, absorbs moisture and expands, causing dilation of the cervical canal. This is a natural process which takes several hours or overnight to accomplish. When the doctor inserts the laminaria you will feel pressure or cramping. You will then rest in the recovery room for a short period of time. You will be given medication to prevent infection, and further instructions.

REMEMBER: *after you have had Laminaria inserted you may have cramping for several hours; non-prescription drugs containing acetaminophen, such as Datril, will help relieve it.

*you must not have sexual intercourse.

*you must not douche, use a tampon or insert anything into the vagina.

*you should use a sanitary pad (bleeding may occur)

*you may shower, but do not take a bath.

*do not eat or drink anything after 12:00 midnight.

*if the laminaria are expelled or fall out bring it/them with you when you have the abortion.

*if you have diabetes, rheumatic fever, thyroid problems, or if you experience seizures or are taking drugs, please consult the nurse for instructions.

*some spotting or light bleeding is normal. IF YOU HAVE SEVERE CRAMPING, A GUSH OF WATERY FLUID, FEVER, OR MODERATE TO HEAVY BLEEDING, CALL

OUR EMERGENCY NUMBER:
(612) 925-4645

*once the laminaria are inserted the abortion has begun. You must keep your appointment and follow all directions carefully or your health will be in jeopardy.

Clinic Abortion.

If you have had laminaria inserted very early in the day, it may be possible to do the abortion several hours later. Your nurse or counselor will let you know if this can be done.

If you are scheduled for an abortion the next day, please make certain that you are prompt.

It is likely that prior to the abortion you will have a small needle inserted into a vein in your arm through which medication can be administered to relax you. This will cause little discomfort.

The doctor will then remove the laminaria, cleanse the area, administer a local anesthetic, and using a vacuum aspirator alternately with a grasping instrument, remove the pregnancy tissue. You will feel some cramping, tugging and/or pressure. The physician or nurse may massage your abdomen, momen-

tarily increasing the pressure, in order to help your uterus contract and decrease bleeding.

You will rest in our recovery room and be given further instructions by your nurse.

AFTERCARE

Be sure to follow the instructions in the booklet you are given, and to return for a two-week checkup.

PLAINTIFFS' EXHIBIT 69

MEADOWBROOK WOMEN'S CLINIC
Suite 510 6490 Excelsior Blvd. Minneapolis, MN 55426
(612) 925-4640

Post Abortion Follow-up Care Book

EMERGENCY INFORMATION

All medical procedures carry some risk of complication.

If you have had an abortion at Meadowbrook Women's Clinic, P.A., Please read these instructions carefully and completely.

Our 24 Hour Emergency Number is:
1-612-925-4645

When you call this number you are talking to an answering service who will contact the doctor at his home.

Our doctors are available for emergency calls at any hour.

However, if you have a question about the standard medications, activity, bathing or intercourse please call during regular Clinic hours which are 8:00 am to 5:00 pm Monday through Friday.

YOU SHOULD CALL IF:

1. You have a fever of 100.4° or 38°C (See Temperature).
2. If after reading the section on Bleeding, your questions have not been answered.
3. If after reading the section on Cramping, your questions have not been answered.

1-612-925-4645 is a 24-hour, seven-day per week telephone number. For a medical emergency during regular office hours, you may call collect. If you call after office hours, please do not call collect because the phone is answered by an answering service. Call our number and leave your name and telephone number and a doctor will return the call.

WHEN CALLING PLEASE HAVE THE FOLLOWING INFORMATION:

1. Temperature within the last hour.
2. The number of sanitary pads used within the last two (2) hours.
3. The telephone number of your pharmacy.

TEMPERATURE

You should check your temperature three times per day for three days following the abortion.

It is important to check your temperature because an elevation of temperature (fever) may indicate a pelvic infection. If a temperature of 100.4°F or 38°C is recorded you must call MWC or your own doctor.

Be sure that you have not had anything hot or cold in your mouth for at least 1/2 hour before taking your temperature (coffee, pop, a cigarette).

Don't hesitate to call a doctor if the fever is associated with cramping or a general pelvic discomfort. If your temperature is in a range of 99.6° to 100.2F and you are unsure of what to do, recheck it in 1-2 hours. If at that time it is unchanged or rising call MWC or your own doctor.

BLEEDING

The amount of bleeding after an abortion varies from woman to woman. It may be very scant (light) or as heavy as a normal period. Sometimes the bleeding may persist intermittently for as long as four weeks. Usually, however, women have very little bleeding immediately after an abortion or during the next two-three days. During this time, the uterus contracts and reduces bleeding. Anywhere from 3 to 8 days later the uterus may relax, thus allowing small amounts of blood to accumulate. Eventually the blood collects and is expelled in the form of clots. Accompanying this release of clots may be some mild to strong cramping. If the bleeding becomes progressively heavy or persists for 24 hours, MWC or your own doctor should be notified.

Bleeding should not require more than one pad (regular size) per hour for more than 4 to 6 hours in a row.

Often a woman has been lying or sitting for a length of time (such as overnight), she will notice an increased amount of bleeding with activity. This is blood that has accumulated in the vagina and has not been expelled. Change your pad and note whether or not the bleeding continues as heavily. More than likely it will diminish.

Remember, you must use sanitary pads, not tampons, for two weeks following the abortion.

CRAMPING

It is normal to have slight to moderate cramping after an abortion. This is a natural response by the uterus to contract back to its non-pregnant state and also to control bleeding. This cramping should not become progressively worse. If after 24 hours the cramping intensifies, you should call us or your doctor.

Some patients experience cramping long (3-8 days) after an abortion. If this is not accompanied by fever (100.4°F or 38°C), this is unlikely to be dangerous. Acetaminophen (Tylenol, Datril) is a suitable medication to take during this time. However, if strong cramps persist more than 24 hours, it may mean that clots are trapped in the cervix. Please call the clinic. If the cramps are relieved by the passage of clots there is no need to call.

MEDICATION

You will be given: Tetracycline (an antibiotic to help prevent infection). There are 16 tetracycline pills.

Take the tetracycline, on an empty stomach, one hour before each meal and at bedtime (4 times a day) until they are gone. **DO NOT TAKE WITH MILK**—no harm will be done; milk just inhibits the tetracycline from working. Start the medication one hour before dinner the day of your abortion and again at bedtime. The following day take them four times each day and continue until they are gone.

Acetaminophen (to help ease your cramps). Brand names of this drug are Tylenol, Datril, and a few others. Two tablets of acetaminophen may be taken every 3-4 hours. Stomach upset is less likely to occur if you have eaten first.

If you have chosen to use birth control pills, start taking them **THE SUNDAY FOLLOWING YOUR ABORTION**. Take one a day **AT THE SAME TIME EVERY DAY**. If you do not start on birth control pills immediately following the abortion, you may not have a period for 6 to 8 weeks. If you have no period after your first cycle of pills, there is no need to be concerned. You should start your second package on Sunday and you should have a period at the end of the cycle.

If you have any questions about your pills or prescription check with us if you live in town. If you live out of town, contact your doctor or nearest family planning clinic for proper instructions.

PHYSICAL CHANGES

Several changes take place in a woman's body during pregnancy. The changes are related to the presence of hormones, and reverse themselves following the termination of pregnancy. Among the changes are breast tenderness, breast fullness, expulsion of milk from the breasts, fluid retention, complexion changes, and nausea.

Wearing a bra with good support may be of some help in decreasing breast tenderness. Do not stimulate the breasts, since this may cause or increase milk excretion.

Frequently the nausea will subside very soon after an abortion. Some of the other changes may not reverse as rapidly. Be patient; relief of the unpleasant symptoms will occur.

EMOTION

It is not uncommon for women to feel depressed or blue a few days following an abortion. Just as hormonal changes in your body can cause you to feel low or moody prior to a menstrual period or following childbirth, the same phenomenon applies after an abortion. Don't be alarmed about such feelings; they are usually of short duration and will disappear once your hor-

mone levels return to their pre-pregnancy state. You may also experience a feeling of well-being and relief. "Highs" and "lows" are normal and common, as is no significant change in your feelings.

If you wish to talk about your feelings with one of our counselors, please call at any time. Post abortion counseling is available on an individual or group basis. Please call MWC for information. If you prefer additional counseling, talk with your counselor about a referral.

CONTRACEPTION

You have watched films and talked with a nurse practitioner and counselor about birth control. With their help you have selected a method that is the most appropriate for you. There is no perfect method of contraception, but any method is better than taking chances. You may resume intercourse two weeks after your abortion. Unless you are using some form of birth control you are already taking a chance. Ovulation (the releasing of an egg from one of your ovaries) will begin again soon after your abortion. You could be risking pregnancy as soon as two weeks from today. During your reproductive years you have about 400 menstrual cycles—in other words you have 400 opportunities to become pregnant! In time, your luck will run out if you don't contracept. The single most important thing you can do for yourself following your abortion is to select a method of contraception—and use it.

ACTIVITIES

There is no medical reason why you can't resume most of your normal activities following the abortion. You can bathe, drive your car, and return to work or school. Let your body tell you if you are over-doing it. Too much activity may fatigue you or increase your bleeding or cramping. If this happens, discontinue the activity and rest. There are, however, two things you must not do until after your two-week checkup. Under no circumstances should you have sexual intercourse nor should you insert **anything** into your vagina, including tampons, douches, etc. Medication we prescribe will be explained. Remember that

your cervix has been dilated and opened. Until it closes again, anything placed in the vagina may cause infection.

TWO-WEEK POST-ABORTION CHECKUP

It is extremely important that each woman have a checkup two weeks after the abortion. This two-week check is provided by Meadowbrook Women's Clinic physicians at no charge at either the clinic or one of their two private offices. If you are unable to return to see one of our physicians, please consult your own doctor for this examination. If you do not have a physician of your own, you should ask your counselor for a referral.

Meadowbrook Women's Clinic
Meadowbrook Medical Building
6490 Excelsior Boulevard, Suite E510
Minneapolis, MN 55426
612-925-4640

Sinykin Associates
Meadowbrook Medical Building
6490 Excelsior Boulevard, Suite E507
Minneapolis, MN 55426
612-920-5166

Sinykin Associates
Metropolitan Medical Building
825 South 8th Street, Suite 312
Minneapolis, MN 55404
612-338-6996

Some of the problems which may occur if you do not have a checkup are:

1. Anemia
2. Continuing Pregnancy
3. Ectopic pregnancy (pregnancy in the tube)
4. Damage of the cervix
5. Failure of the uterus to return to its non-pregnant state

If you return to your PMD for your two week check-up your doctor should run a pregnancy test.

This should be negative (not pregnant). Some doctors however are using a very sensitive test and the results may be positive even though you are not pregnant.

If this occurs, ask your doctor what type of test was used. Then call the Clinic. Our number is 925-4640. Call during business hours.

Meadowbrook Women's Clinic will not be responsible for any **hospital** costs resulting from a complication of the abortion, nor any fees charged by another physician. Any treatment provided by one of our own staff physicians, related to your abortion, is free of charge.

IT IS NOT UNUSUAL TO PASS SOME CLOTS OR TISSUE-LIKE MATERIAL FROM THE VAGINA FOLLOWING AN ABORTION. Since you are using pads, these are more likely to be noticeable than with normal period flows. These clots do **NOT** indicate that you have had an incomplete abortion. Physicians who do not specialize in abortion are not always able to determine whether the cramping or bleeding you are having is normal. Therefore, before agreeing to hospitalization or surgery which may be unnecessary, please ask your physician to contact ours. We may be able to help resolve the problem without more expense to you. In this way we can share accurate follow-up information and provide the best possible service for you.

FUTURE PREGNANCIES

Women who have had abortions are understandably concerned about the effects on future pregnancies. Recent studies indicate that the most important factor bearing on future pregnancy outcome is timing. Pregnancies occurring within 3 months of an abortion, miscarriage, or a vaginal delivery have a somewhat greater likelihood of ending in miscarriage. After 3 months the risk of miscarriage is the same for women not having had abortions (about one in eight). After one abortion the bulk of the scientific evidence shows no increased risk if proper timing is

observed. Some studies show a slight increased risk of prematurity or low birth weight babies after 2 or more abortions. Other studies, however, disagree with this finding. The important thing to remember is that the physician caring for you during a subsequent pregnancy should be made aware of the fact that you have had an abortion. This will enable him/her to give you proper and appropriate care.

TO PHYSICIAN SEEING OUR PATIENTS FOR FOLLOW-UP CARE:

Ms. _____ had a _____ vacuum aspiration abortion _____ a D&E with Laminaria abortion to terminate a pregnancy of _____ weeks gestation on _____ 19____. Her RH factor is _____. She (did) (did not) receive RH Immune globulin.

Type of contraception in which the patient is interested:

_____ Oral 1 month supply given of _____

_____ IUD

_____ Diaphragm

_____ Sterilization

Special considerations _____

POST-ABORTION CHECK-UP FORM

Please return to Meadowbrook Women's Clinic, P.A.
Suite E510, 6490 Excelsior Blvd., Mpls., MN 55426

Date of Abortion: _____

NAME: Ms. _____

Physician Name _____

Address _____

City, State Zip _____

Results of Examination _____

Date _____

Signature of Physician _____

PLAINTIFFS' EXHIBIT 70A

**EXCERPT FROM PHONE TRAINING MANUAL FROM
MEADOWBROOK WOMEN'S CLINIC**

**PHONE TRAINING MANUAL
MEADOWBROOK WOMEN'S CLINIC**

Parental Notification for Minors

Minnesota has a state law requiring parental notification prior to an abortion, if the patient is under 18 years old. The requirement is not for consent, just notification. Parents cannot prevent their daughter from having an abortion.

The law specifies that both biological parents be notified, even if only one parent has custody of the child. There are two general ways of meeting the requirements of this law: 1) furnishing proof that parents have been notified, or 2) obtaining court permission to bypass the notification requirement.

When making an abortion appointment for a minor, you must tell her about this law and determine which method of compliance she will use. Do this before you actually make the appointment because the timing of the appointment will depend on how she decides to handle notification.

A. Exemptions From Parental Notification Requirement:

There are three situations in which a minor is not required to notify her parents:

1. *She is an emancipated minor*—this means that the woman is married, has had a child and is raising it, or lives apart from her parents and is self-supporting. She must furnish proof of her status (ie. copy of her marriage certificate, copy of her child's birth certificate, or paycheck stubs, rent receipts, etc.)
2. *She would die if the abortion was not done.* This must be certified in writing by a physician. (This has not happened in 2 years.)
3. *She is a victim of sexual abuse, and it has been reported.*

Sometimes a parent will say that the other parent is not allowed to see the daughter. This usually does not mean that the parent doesn't have to be notified. Ask whether the custodial parent has court documentation saying that parental rights have been terminated for the other parent. If not, then he or she must be notified.

B. *Determining How the Patient Will Notify Parents:*

Start by asking her whether she has discussed the abortion with her parents. If she says yes, ask whether they are both her biological parents. (For example, if the parents are divorced, the patient may live with one parent and the parent's new spouse. Unless that spouse legally adopted the patient, he or she is not the patient's parent. If the minor has been legally adopted by either step-parent, then the absent biological parent would not need to be notified.) If both legal/biological parents know about the abortion, tell her that there is a notification law and that we need proof of notification. That can be done in one of two ways:

- 1) Both parents can come with her and sign the consent form, or
- 2) If one or both parents are not coming with her, she must bring a notarized letter from that parent or both parents stating that they consent to their daughter's abortion. Emphasize that the letter must be notarized and that if she does not bring it we cannot do the abortion that day. We are very strict about this.

If the patient says that both parents are coming with her, you should tell her that if plans change and one parent doesn't come, she needs to bring a notarized letter from that parent.

Make an explanatory notation in the "special" column on the appointment page. The notation will indicate the method of notification the patient is using. Write "PWP" if both parents are coming to the clinic with the patient. If she is bringing a notarized letter, write "NL". If she is bringing one parent and one letter, write both "PWP" and "NL" in the column.

Sometimes a patient has discussed the abortion with only one parent, but cannot or prefers not to discuss it with the other parent. There are three situations which fall within this category:

One Parent Knows

— *the other parent lives far away or cannot be located.* In this case, it may not be possible or desirable to get a notarized letter from that parent. Instead, the parent can be notified by a certified letter or the patient can go to court to waive notification. These options are described later.

— *the other parent is deceased.* In this instance, the patient must bring proof that the parent is deceased. This is usually a copy of the death certificate from the State Health Dept.

— *the patient prefers not to tell the other parent.* Sometimes the patient and one parent decide not to tell the other parent about the abortion. In that case, the law requires the patient to go to court, even though one parent does know about the abortion.

Neither Parent Knows

When the patient prefers not to tell either parent about the abortion, then she goes to court.

C. *Instructing the Patient on Notification Procedures:*

Once you have determined how the patient wants to handle notification, you can give her the necessary instructions and make her appointment. The notarized letter was described above. The certified letter and court options are handled as follows:

—Court

When the patient is going to court, first find out where she lives and where she'll go to court. According to the law, she should have access to court in any Minnesota county. However, the easiest counties are Hennepin and Ramsey. If she *lives* in either Hennepin or Ramsey counties, she must go to court in the

county in which she resides. Minors who live in counties *other* than Ramsey and Hennepin may go to *either* court. We most often send ours to Hennepin County Court because they can have everything done in one day if they are a vac patient.

For *Hennepin County*, tell her she can go to court and have the abortion on the same day. Hennepin County sees minors at 10:30 AM every Monday, Tuesday & Thursday.

Give her the phone number for Hennepin County Court-house (the number is posted at the front desk) and tell her to call there first to schedule a court appointment. All court appointments in Hennepin County are at 10:30 AM. Then she will call us back and we will give her an abortion appointment on the same day.

Make the abortion appointment for 7:30. You should enter the appointment information, however, under a 10:00 or 10:30 slot on the appointment page. (Her abortion will actually be done in the afternoon). Write "7:30" next to it.

Tell the patient she will come here first at the time we gave her. She will have her lab work, exam, counseling done before leaving for court. This is because the judge wants the patient to be informed about the abortion before she goes to court. Then she is given a map and directions to court, she goes there, gets her court document to bring back, and returns to the clinic for her abortion procedure. She will not get back to the clinic until about 1:00.

For *Ramsey Court*, her court appointment and abortion appointment will probably be on different days. Give her the phone number for Ramsey County courthouse and have her make that appointment. Then she will call us back, and set up an appointment here for counseling *only* before the court appointment. This appointment should be made for the early afternoon, under "indecision counseling" in the second trimester appointment book. She needs to come here first because the judge wants her to be counseled about the abortion before she goes to court.

When she calls to make the counseling appointment, she can also make the abortion appointment for any day after going to court. She will be examined, etc. on the day of the abortion.

After making the abortion appointment for a court patient, write "CT" in the "special" column on the appointment page. This indicates to the staff that she is going to or has been to court.

It is important to remember that a patient *cannot* go to court if the parent in question knows about the abortion. Court is only for minors who do not want to tell one or both parents about the abortion. If the parent knows about the abortion he or she must provide a notarized letter or receive a certified letter. (If they don't want to go along with the abortion and refuse to provide a notarized letter, the certified letter is the only option.)

—Certified Letter

The law specifies that a certified letter must be received by the parent hours before the abortion is done. When making the abortion appointment you must determine how far ahead to make the appointment. The letter is considered to have been delivered to the parent the day after it is mailed. Then the abortion appointment can be made for the third day after the letter is mailed. Make the appointment in the late morning of that day, so that the abortion will actually be done after noon. For example, if the patient calls on Monday, and the letter is mailed on Monday, then the parent gets it on Tuesday and the appointment can be made for Thursday.

Write "CL" in the "special" column on the appointment page.

If they *are not sure* where the absent parent lives, we can send a letter to last known address.

How to Send a Certified Letter

— there is a file on "Certified Letters" at the front desk. It is in the drawer next to the furthest left chair. In this file, you will find the forms you need to send the letter. You will also find xeroxed copies of how the forms should look when they are filled out.

— first, pull out a copy of the letter which is sent to the parent. Sign it with Dr. Fred Lyon's name. Fill in the blank spaces with the appropriate information.

— enclose it in an envelope. Take a copy of the small white and green slip labeled "Receipt for Certified Mail". Refer to the xerox copy for how to fill it out. It is always the same. After filling it out, tear off the bottom green part, moisten the back, and put it on the lower left corner of the envelope. The top part gets handed to the mailman when he comes to get the mail.

— write restricted delivery above the green "certified mail" tag on the front of the envelope. This means that the letter can only be delivered to the addressee.

— the other form you need is a green cardboard tag. It should be filled out on both sides. On the side which says "return to" write our address. On the other side, fill out questions 1-4. On question #4, the "article number" is the number on the green "certified mail" tag which you put on the front of the envelope.

After filling this out, tear off the adhesive tape and fasten the tag to the back of the envelope, so the letter cannot be opened without removing that tag.

— be sure to write our return address on the envelope. Just write:

E510
6490 Excelsior Blvd.
St. Louis Park, Mn. 55426

— after the letter has been posted, it is ready to be mailed. The last step before mailing is to enter information about your letter to the record we keep of certified letters, in the same file at the front desk. You should write in the patient's name, the date the letter was sent, the address it was sent to, and the date of the abortion.

— the mailman comes to the clinic every day at about noon. The letter must be handed to him. Until then, tape the letter on the edge of the counter where the clipboards are. Whoever is at the front desk when the mailman comes will give it to him.

— if the mailman has already come that day, and it is urgent that the letter go out that day, take it to the Post Office by 5:00 (the window must be open). You can also take it to Byerly's, as they have a Post Office there.

PLAINTIFFS' EXHIBIT NO. 73

MEMO TO: All Staff Scheduling Abortion Appointments

FROM: Char Baker

DATE: July 10, 1984

RE: Compliance with the Parental Notification Law for Minors

PARENTAL NOTIFICATION
LAW

CHECKLIST

1. Every patient must be asked her age: Identification should be requested and photocopied and placed in the patient's file establishing the woman's identity and age. This should be done for all 18 and 19 year olds and any woman who appears to be under age 20. Driver's license, birth certificate or notarized *Statement of Age* form
2. All minors (women under age 18) must be established as emancipated or unemancipated.
3. *Emancipated minors* are women who are under 18 years of age but:
 - are married; or Marriage License
 - have continued a pregnancy to full term; or Child's birth certificate
 - have managed own affairs and are living apart from parents Copies of 1 (one) year's rental receipts
 Emancipated minors must sign a "statement of emancipation". *Minors Exceptions* form

PARENTAL NOTIFICATION
LAW

CHECKLIST

4. *Unemancipated minors* have to meet one of the following conditions:

- provide authorization for the abortion in writing from both of the parents (if living), or the legal guardian or conservator, if the minor has one; or *Parental Notification form*
- provide written notarized authorization by the living parent that the second parent is not living; or *Abortion Decision Acknowledgment By Parent (When Other Parent is Absent) form*
- provide written verification by the parent accompanying the minor that the absent parent is aware of the abortion decision; or *Verification of Absent Parent Signature form*
- both parents (or guardian or conservator) are notified in writing of the abortion by MHCW forty-eight (48) hours prior to the appointment; or *Letter to Parents form*
Certified mail return receipt
- provide written notarized verification by both parents stating they are aware of the minor's abortion decision; or *Notarized Parental Notification form*
- have been a victim of sexual abuse, neglect *Minors Exceptions form*

or physical abuse by the minor's parent(s), guardian or person responsible for the minor's care. MHCW must report this immediately (if a report has not been made) as required by Subdivision 3 of Section 626.556 of MN. Statutes

Written proof of reported abuse

5. *Unemancipated minors* who do not desire parental notification of both parents can utilize the *Court Bypass Procedure*.

6. *Scheduling LEC Minors:*

- Only schedule LEC appointments prior to abortion clinic (1 hour prior to counseling schedule) or following the abortion clinic (allowing 1 hour for the LEC work-up).
Check with Teen Counselor for court appointment and counseling
Check with Nurse for lab and exam work-up
- Out-of-town minors can be scheduled for the LEC work-up at 8:00 a.m. on scheduled court days.
Check with Teen Counselor for court appointment and counseling
Check with Nurse for lab and exam work-up

PLAINTIFFS' EXHIBIT NO. 92

DEPOSITION TESTIMONY EXCERPTS
OF DR. JANE HODGSON (JULY 11, 1985)

[DIRECT BY MS. BENSHOOF
AND MR. PENTELOVITCH]

[25] * * *

Q Could you give us any approximation about what percent of your patient load throughout the years have been teenagers?

A I would estimate at least 30 percent.

Q Prior to the—

A May I add?

Q Go ahead.

A When I began practice in Saint Paul, I—in order to pay the rent, I took the job as gynecologist at the University Health Service and provided gynecology care for all of the University of Minnesota women students. And that was very—so that the group of patients I saw there were all college level. And I—I continued in this role for a matter of six or eight years until I was too busy to continue it.

Q So during the six and eight years you were Director of Gynecology for the University of Minnesota, nearly all [26] of your patients were teenagers—

A Correct.

Q —or just above that?

A Correct.

Q Thank you. And what years was that?

A That was from 1947 till probably till the—about 1945—'55.

Q Other than the present Minnesota abortion parental notification law, have you had any experience in your career working under parental notification laws or policies, either in the field of contraception or abortion

A Well, there has always been a reluctance on the part of hospitals and physicians to deliver any kind of medical services to a minor without parental notification. And the laws have

never been really spelled out. They differ, depending upon the—the organization you're working with.

Each—each clinic, each organization, each hospital has their own regulations in that regard, partly on a defensive basis and partly so that they can be sure to collect the bill.

I've had—as far as I was concerned, I—I—sometimes I would insist upon it and other times I was indifferent as to whether or not I felt that each case [27] should be judged on its individual merit and as long as—so that I was always aware of it, shall we say, but it was never any major problem.

Q When you were aware of it, you stated that it wasn't a major problem for your medical practice. Why wasn't it? Do you believe you acted differently than other doctors?

A Yes, I do.

Q How did you act differently in regards to your teenage patients?

A Well, if I thought that it was bad medical care for us to involve the patient's parents, I would not involve them. And on—on the other hand, when it was important, I would insist upon it.

I also always insisted upon a private interview with a teenager before discussing the problems with a parent. If a mother brought her daughter in to see me for any reason, I always excluded the mother from my interview with the patient and insisted on seeing her alone because I found that the histories were much more accurate, particularly in regards to confidential matters.

Q So you found even when a minor came in with their parent that they would not reveal the truth about sexual matters when the parent was present?

A That's correct. And they would—often contradictory and it was much more time consuming and I felt that I [28] could—I could determine the situation much—make a diagnosis much better if I saw them separately, on the whole.

Q Throughout your history of treating teenagers in the last 45 years, have you found that confidentiality was an important concern?

A I think that privacy is extremely important to a teenager who is notably sensitive about their immaturity. They're anx-

ious, apprehensive, often ignorant about the realities of life and the—to them, their privacy is extremely important, particularly at that stage in life where their parents are concerned.

There's that stage where they go through the closed door syndrome, where they go to their room and close their doors and never speak to their parents, and I think everyone goes through that if you've had a teenager.

Q In providing contraceptive care, do you find that to be equally true?

A In regard to any matter. In regard to their physical or social wellbeing, I think that teenagers tend to be very private.

Q You stated that you've worked under various institutions with different policies on parental notification or consent. Do you find that minors are more willing to seek out medical care when they're assured of confidentiality?

A Oh, that has been demonstrated in any number of articles.

Q Do you find that true in your own experience?

A Oh, exactly. Absolutely.

* * *

[50] * * *

BY MS. BENSHOOF:

Q Dr. Hodgson, you've testified that you've received many referrals and are still receiving referrals from other doctors in the state on their patients needing abortions. Do you have an opinion as to why there are not more abortion providers in Minnesota?

A Well, there are a number of reasons. I think one of the obvious ones is the unfavorable publicity surrounding the procedure and the delivery of services, the clinic bombings and—the violence and the—the actual [51] terrorism.

There are a number of doctors throughout the country that have had their offices bombed. One right here in the Twin Cities has had a lot of damage done. So that is the most obvious reason.

I think the fact that abortion is never taught in medical school or very few of the medical schools, that there's a great

lack of teaching in the field. And it's only recently that it—it has even been discussed in the textbooks. That's one reason I published this in 1981 as a textbook on the field.

Many doctors are not trained in it. It is a specialized procedure. Simple though it is, it is a subspecialty that requires a certain amount of expertise.

And doctors have been—in the past, the older group, anyway, have been so intimidated by the—the teachings of—against invasion of the uterine cavity, the pregnant uterine cavity, for any reason whatsoever all through the past that this has been thoroughly engrained and it's difficult for conservative doctors to overcome this attitude.

In addition to that, there has been, up until the present time at least, a relative shortage of doctors in the country so that everyone that—many that—were too busy or it didn't involve their specialty and they [52] didn't want to undertake—withstand the glare of the publicity that would surround it.

So all of these things enter in and—and the law, of course, was the chilling effect up until '73. And now, even the restrictive laws that we do have are—are chilling, as far as teenagers are concerned. I think doctors would be very—most doctors are very reluctant to undertake the teenager—the minor, simply because of this notification—mandatory notification law.

Q Do you believe that there are doctors in Minnesota who do or would do abortions for adult women who are reluctant or do not do abortions for their teenage patients?

A I would say that I think they're much more prone to refuse—to refer the teenager—the minor than they would the adult. And I—I also believe, but I cannot document it, that there are a number of physicians throughout the state that are doing procedures, the occasional one in their office. And these are not reported and we have no way of knowing, but I—I believe now with the increased availability of equipment, more and more physicians are buying suction machines; the hospitals are getting more or less standard equipment now to treat the incomplete abortion.

Many physicians now are invading the uterus for a woman that has already started to bleed and they are [53] using suction for incomplete abortion procedures so they are becoming more

familiar with the technique. And as time goes on, I think that they will be doing more, but it's very, very slow and we have—don't have nearly enough providers at the present time.

Q So you think that doctors who have the equipment and are technically capable of doing an abortion still, for other reasons, refer patients to you?

A Yes, I do. I think they don't want the hassle. There are so many problems involved, plus the fact that they—there still is a stigma to being abortionists.

Q Do you think that doctors are concerned about their name being known as doing abortions?

A Absolutely. If they belong to a church where there are—where there's a strong feeling in opposition to abortion services, why they're going to be affected. Obviously—even though they may personally or medically have no objection to it.

Q You've mentioned that you've been Medical Director of all of the clinics or most of them in Minnesota in the past few years. As Medical Director, was it part of your job to get other physicians to work at the clinics?

A Yes, and I have trained any number of young doctors in the specialty. It has been difficult, really, to find—very—very difficult in the past to find qualified [54] physicians who were anxious to learn.

Q Did you, in seeking physicians to be employed at these various clinics, have conversations with doctors who then turned you down?

Q I'm sorry. Would you repeat that?

Q When you were Medical Director and sought to engage the services of doctors to do abortions at the various abortion clinics, did you have conversations with doctors to become employed at those clinics, after which conversation the doctor refused?

A Oh, yes, very many. Particularly, this was the case in opening the clinic in Duluth. It was impossible to get local Duluth physicians. It still is. We are—we have to import physicians from Hibbing and Bemidji and—I can't think. It's a town near Grand Rapids. Anyway, small communities some distance from Duluth, all of whom I have trained personally.

I have frequently approached the Duluth—the Saint Louis Medical Society and given presentations and they—they have requested me to appear before their residents and—and discuss the technique and all. But they're a very conservative group there and so we've been unable to get any of the Duluth physicians involved.

Q What reasons do they give you?

A Economic and social pressures, primarily. And then some [55] of them ideologically are opposed. Members of the—the specialists in the Duluth clinic tend to be, the older members.

Q What do you mean by ideologically?

A Well, that feel that abortion services are immoral and so they don't want to have any part of it.

Q And when you say social pressures, that's not the same thing as ideological?

A No, not necessarily. Some may be in sympathy with the provision of services, but because they feel they cannot go contrary to the—the opinion of their church or their friends or their family, they don't want to create any waves so they abstain from performing the service.

There are many facets to the problem and, obviously, the—I think as time goes on and it becomes more and more of a standard procedure, this is lessening and people are much more free to discuss it and the fact that a million and a half are being performed every year in this country I think is—is making it more commonplace.

Q What factors, other than the number of providers, affect the accessibility in Minnesota of abortion for minors?

A Well, the geography of the state, for one thing. It is a very long state. The distances are many and—and the providers are all concentrated down in this one little—these five counties all close together, with [56] the exception of Saint Louis County.

And so they—a patient from International Falls, for instance, has a long trip. And prior to the Duluth clinic opening, why they had to come all the way down to the Cities. It still is a distance to go to Duluth. Some of them have to travel all across the state, both the width or the length.

And transportation is poor in many of these communities. Train services have been disconnected and—and no flights. Many—as far as Duluth is concerned, many of the patients have to—they have to drive by—with a personal automobile.

And I've seen many of the teenagers that hitchhike when I've been working here in the Twin City area, as well as in Duluth. And they will hitchhike in extreme kinds of weather which is another hazard, the sub-zero weather in the winter and the hot weather in the summer, and so—

Q You've had teenage patients who've been hitchhiking many miles—

A Oh, indeed.

Q —to get to you? Teenage patients?

A Indeed. Desperately, that have come in extreme heat and—and that was what prompted me to want to help open the clinic in Duluth because we were having so many from [57] the Iron Range, Canada, northern Michigan, that would come all the way to the Twin Cities and have to undergo such hardship, actually, to get here; and then the risks of sending them right home after a surgical procedure were relatively great and so I was repeatedly concerned about this for years.

And when we opened the clinic in Duluth, why we promptly—the very first month, there were more than 100 abortions performed and they've averaged about 125 a month on a very steady basis. They're drawing more and more from Canada and, of course, from the whole northeast section of the state. And this has alleviated, to a degree, the travel hazards and the burden on the teenager.

But it's still—we are one of the worst states in the nation, as far as accessibility, according to the Guttmacher studies on the importance of travel time and the accessibility of abortion services as far as providing those that are necessary.

They still estimate that they're—that we are only doing roughly 50 percent of the abortions that are—are wanted and needed in this state.

Q Have you had teenage patients who couldn't get to you or had to cancel an appointment because of the travel distance in Minnesota or lack of transportation?

[58] A Blizzard conditions. That's not at all unusual during the winter months, although these patients are usually so motivated that they'll get through and no other patients will.

It's sort of a joke at Saint Paul-Ramsey that when they close down the—all the clinics at the hospital, the only one they don't close is the Fertility Control Clinic because you can be sure that—that some of those patients are going to get through and come. So it's rare that a whole clinic would ever be cancelled. Some patient's going to make it.

Q So is it your opinion that whatever burdens exist for all women in Minnesota in abortion accessibility, these are accentuated in the case of teenagers?

A I think it's much different than a small state like Massachusetts, for example, or—or in the New York area where transportation's available. Yes, our problems are considerably different.

And the fact, too, that many of these teenagers are from rural—very rural communities, very sheltered. They don't know how to cope with—some of them have never been to the Cities before. And then there's the matter of finances of arranging for this travel, which is a—

Q For the teenagers?

[59] A For the teenager, which is an—the economic burden is great. They not only have to arrange for their—the payment of the service, but just simply the time consumed and the costs of travel and then, of course, the problem being away from school.

Q If a teenager is from a family in Minnesota that receives Medicaid for their medical services, does such Medicaid pay for the teenager's abortion?

A No. There is—there are no subsidies granted a patient—a teenager who chooses to terminate her pregnancy.

* * *

[70] * * *

Q Dr. Hodgson, we've—we've been discussing the mortality risks of abortion overall. Does that—do those risks change depending on weeks of gestation? And I'd like to refer you now to examine Plaintiffs' Exhibit 5.

A It has been very obvious that the risk increases with the stage of gestation. This has been repeatedly pointed out by—there are many, many articles to support this. This particular graph, Exhibit 5, is from the Center for Disease Control, Abortion Surveillance—I think the same graph is in my textbook on abortion and sterilization—illustrating that for the death-to-case rate increases with each week of gestation and this is roughly 50 percent per week after the eighth week.

Q So that for each week of pregnancy a woman delays an abortion, the risk of death increases 50—

A Increases by 50 percent, right.

* * * * *

[73] * * *

Teenagers tend to seek their care later and they tend to be more anemic. They're careless about their diets. They tend to have a higher incidence of infection because they delay their post abortion care. They ignore [74] the complication and they don't have the care that the older women do.

But overall, there's very little difference in the morbidity rates, when you adjust particularly for the stage of gestation.

Q So that—you've testified that one factor creating a complication for teenagers is that they have tighter cervixes so that's a different consideration.

A Correct.

Q What can be done—or what do you do as a physician to help eliminate the possibility of this kind of complication in an abortion for a teenager?

A One of the advances in abortion technology in the last decade has been the increasing use of laminaria which is a—prepared from Japanese seaweed. It's the stalk of the seaweed. It's a very hydroscopic—hydrophilic, I should say, material which absorbs water from the cervix and has a very peculiar effect that no one has really explained scientifically which makes the cervix very easily dilated.

And this—these—this material which comes in the—very much resembling a pencil, a very fine pencil, is inserted into the cervix and left for several hours, at least four to six hours as a minimum, and this causes softening and dilatation of the cervix

and facilitates [75] the dilatation and avoids the tearing and any muscle damage to the cervix. So that in the teenager, particularly, this is being used more and more commonly.

Q What gestational age—at what gestational age would you use laminaria when you do an abortion?

A Well, it wouldn't be a matter of age. It would be more frequent, of course, in the youngster because they have the tight, immature, very—

Q I meant the stage of pregnancy.

A Oh, in the early pregnancies—well, in any stage in—in the adolescent we're apt to use it because—depending on the stage of their pregnancy.

If they have a—a second trimester pregnancy, they would have to have laminaria; and often in the late portion of the first trimester, if the cervix is still very hard and undilated, they have to have it.

So it's an individual thing. It doesn't necessarily relate to—stage of gestation or age, but particularly is it appropriate to use it in the teenager.

Q Is it correct to say, then, that your testimony is you tend to use—you consider laminaria medically advisable more often with teenage patients because of the condition of their cervixes than with adult patients?

A Oh, very definitely.

Q And is this a recent development in abortion technique?

[76] A Well, it has gradually increased in popularity. I would judge that 50 percent of the clinics all over the country do use it, at least in select cases. Some use it routinely in every case.

Q First and second trimester?

A Yes. In—at San Francisco, for example, it was the protocol to insert laminaria in every woman, every age, every stage of gestation, regardless, and—which is really superfluous treatment for the woman who's had several children and it accomplished very little. But they felt so strongly about its performance, they didn't want to deprive anyone of possible benefit.

So this necessitated two visits to the clinic which had a real handicap, too. They would be sent home with the laminaria in

place and then come back the next day. We'd insert it late in the afternoon or in the afternoon and then the next morning, they'd come in—back for their procedure.

Q When you teach abortion techniques, do you point out to other doctors about the use of laminaria in teenage cervixes?

A Oh, very definitely. I feel very strongly that they should have the benefit. A number of synthetic materials have been manufactured in an attempt to find something cheaper because the laminaria is rather expensive and [77] nothing has really proven as satisfactory as yet as the laminaria.

Q You've testified that insofar as mortality rates, abortion is one of the safest surgical procedures in the United States. Is it your opinion that considering morbidity or complication rates, it is still one of the safest procedures or that—is that included in that opinion?

A Yes. It is about one two-hundredth the risk of an appendectomy, for instance.

* * * * *

BY MS. BENSHOOF:

Q Dr. Hodgson, you testified that the mortality risks for abortions increases 50 percent with each week of pregnancy. Is there also an increase in risk for complication rates or morbidity?

A Oh, absolutely. That also increases with each increasing—with each increased week of gestation.

Q For teenage patients, what are your medical recommendations insofar as lowering the risk of death and the risk of complication for these patients?

[78] A The most important way to eliminate complications in the teenager is to eliminate delay. And I have felt very strongly on this particular issue, even to the extent of incorporating it in a chapter on unwanted pregnancy in adolescents which was submitted as an exhibit. It is in Dr. Blum's textbook on adolescent pregnancy.

Q What year was that?

A That was written in 1981. Actually written in 1980, prior to the—to our law that was passed on parental notification.

But I—in this article—in this chapter, I stressed the importance of responding to the teenager on a—just instantly. When they telephoned, they shouldn't be left hanging on the telephone. They shouldn't be given the—the go-around as far as appointments. They should—

The receptionist should be alerted to the way that teenagers act. Often times, it takes them so long to muster up their courage and to phone a doctor's office that when they make that contact, you should be receptive and get them—urge them if you think there's any possibility of pregnancy or even fear of pregnancy. Whether they've missed a period or not, they should be urged to come in. Not tomorrow or the next day, but right then and there.

[79] And always keep an open slot for—for a—a teenager. I think this is very important. And when they get to the doctor's office, they shouldn't be kept in the waiting room for any length of time because teenagers will disappear out of waiting rooms and lose their courage and not show up again for another month or two.

So they should be taken care of promptly. They should be put in another room. They should be treated with—it's—it's really very serious, that they should be given immediate attention.

If they're not pregnant, or they're fearful of it, then they should be given contraception or advised in regard to it, advised as to the risks of pregnancy and—and the alternatives and so forth. And the younger they are, the more this is the case.

And so I—I think it's something that the medical profession has been negligent about and I have earnestly tried to educate doctors in other fields as to the importance of—of delay.

* * * * *

[82] Q In evaluating pregnant teenagers, could you explain the risks of—what the particular risks are with continuing the pregnancy and going through childbirth for a teenager, as opposed to being able to obtain an abortion? I think you could start out your answer to that question by just what are the risks to the health of a teenager who is carrying through a pregnancy and childbirth.

A Well, the risks to a teenager are greater, of course, than they are for an adult simply because nature didn't intend it that way, even though women—even though teenagers are achieving menarche at an earlier age now than they did a few decades ago.

It's been estimated that the age of menarche is decreasing about four-tenths of a year every decade. And at the beginning of the century, women didn't begin menstruation until they were over 15. The average age was about 15.6 years, I believe. And now it's down to 12, a little over 12, just in the—within this last century.

But they're—when you see some of these children, it's obvious that they can't go through a pregnancy without having considerable distortion, from a physical point of view.

They're—they're apt to develop varicose veins. They develop abdominal changes in their—their [83] physique; muscle changes, abdominal changes. They lose the elasticity of their skin, the muscle—the elastic fibers are ruptured. They develop cardiovascular problems. They can have severe toxemia, which is based upon stress, which, of course, is always greater in the teenage pregnancy because of the social aspects. They may develop molar pregnancies.

I recall very vividly one of my first patients in Saint Paul was a 16-year-old that came in with a blood pressure of 200 and she had—as it turned out, we diagnosed a molar pregnancy.

Q Which is what?

A Which is a—it's a overgrowth of the afterbirth which destroys the—the fetus, per se, but the pregnancy continues and it's very—can be very dangerous. And this girl was really very seriously ill until we emptied her uterus of the molar pregnancy and she later recovered, but she was running a very dangerously high blood pressure and she could have had a cardiovascular accident and had a stroke or—or any number of complications; heart failure.

Q And do you think that the chances of developing such a pregnancy are higher in teenagers than adult women?

A The incidence of toxemia is definitely higher in the teenager. And the—

[84] Q Is molar pregnancy related to toxemia?

A Molar pregnancy causes—will cause toxemia. Yes, they can be related. They—

Q Are there differences in mortality rates for teenagers or for younger teenagers compared to the general adult woman population?

* * * * *

A Maternal mortality rates do run higher for the—for the teenager and—very slightly, however. And it has been argued that this is due to the fact that they don't have good prenatal care. And in—with select groups, they have been given special attention and watched very carefully through their prenatal period and the results are supposedly the same.

But it's just the nature of the teenager that they're not going to seek prenatal care early. They're not going to watch their diet. They tend to be very careless about [85] nutrition and dental care and observing all the rules of good prenatal care. And it's pretty difficult to make them all conform to this pattern.

Obviously, with an unwanted pregnancy, a patient is not motivated nearly as much to take care of themselves as an adult who is very much seeking that pregnancy.

So we see that—that teenagers are—are careless. They don't eat properly. They don't seek—they don't go to the doctor. They wait until the very last minute, if they have any prenatal care at all, and so the results are that the morbidity and the mortality rate is slightly higher in this group.

Q Do you have any idea about how much higher the risk of death is for teenagers under the age 15 compared to adult women?

MR. GALUS: Excuse me. What is—what is meant by adult women in that question?

MS. BENSHOOF: Women 20 to 24.

A Well, according to the statistics from the National Center for Health, from teenage—no, this is from "Teenage Pregnancy in Minnesota," actually. It's a—it's a—

[86] Q State.

A —publication—

Q From the State.

A From the State, in nineteen—1982. "Teenage Pregnancy in Minnesota." And they point out and these figures were originally obtained, I'm—I think from the National Center for Health Statistics and CDC. The children that—that the adolescent female is three and a half times more likely to die from toxemia of pregnancy than—than pregnant females in their twenties.

Q Excuse me. How many times?

A Three and a half times.

Q Isn't that one and a half (indicating)?

A Well, that's—I'm sorry. I read—yeah, it is one and a half.

* * * * *

[87] * * *

A The pregnant female is one and a half times more likely to die from toxemia. She's three and a half times more likely to die—the female under 15 is three and a half more times likely to die from toxemia. Those from 15 to 19 are one and a half times. I'm sorry to get that confused. They're 1.3 times more likely to develop anemia; and, of course, their nutritional reserves are depleted.

Q And is there a general maternal mortality figure for women under 15 compared to women 20 to 24?

A Well, this report claims that the maternal mortality is 60 percent higher for women under 15, and 13 percent higher for women 15 to 19 than for women 20 to 24.

Q You've discussed your—the statistical risks that a teenager faces either with pregnancy, terminating in abortion, or with continued pregnancy and childbirth, [88] and you had stated earlier in your testimony that it is 20 times safer for any woman to get an abortion in the first eight weeks of—of pregnancy than to continue the pregnancy and go through childbirth.

Do these statistical risks apply to teenagers who have specific medical problems or conditions?

A Well, teenager who has an underlying medical disorder, a complication obviously will carry much higher risks. This—this is just—these risks are figures for large group of—the overall group of women.

Q In your professional experience, have you ever had occasion to observe pregnant minors under the age of 18 who have had special health problems making abortions medically necessary, above the statistical necessity?

A Yes, indeed. I have had to carry some of them through pregnancy that have been very difficult. I can think specifically of youngsters with rheumatoid arthritis that are so crippled they could hardly move, and very severe diabetics. I can think of one that went through a pregnancy and later came into my office in the late '20s.

She was blind. And—

Q Do you think that having gone through pregnancy as a teenager attributed to this blindness?

A Well, the authorities in the field of diabetes—I can't give you any specific quotes on that, but the general [89] feeling over the years has been that allowing a pregnant woman to go through a pregnancy probably decreases her life expectancy about five years.

Q You mean a diabetic woman?

A A diabetic woman. And this would be even more true of a juvenile diabetic because they tend to be more—much more severe diabetics than the adult—the woman who acquires the diabetes in adulthood.

So for the juvenile diabetic to go through pregnancy, that really—it's—it's—to a degree, it's a life threatening thing if it's going to shorten her life three—five years; and, of course, precipitates the complications of diabetes which are retinitis and optic neuritis and blindness and—

Q So one of your patients did go blind?

A Yes, that's right.

Q You mentioned another teenage patient who had to go through a pregnancy with rheumatoid arthritis. What happened to her as far as future physical repercussions?

A Well, she was unable to care for that child and—because physically, she just wasn't able to. And I know she sought—she was pregnant a second time and sought an abortion. This was after abortion was legal and—

Q Was—during her first pregnancy, was abortion legal?

A No, it was not and she had had to carry—carry a [90] pregnancy through term then.

Q Were you her obstetrician?

A Yes.

Q Was it a wanted pregnancy?

A No.

Q What did she have to do to get through the pregnancy?

A Well, it was very hard—very, very difficult because she was in a good deal of pain and unable to care for herself, and it did not help the arthritis at all.

Q Was she bedridden?

A Essentially.

Q You stated she got pregnant a second time when abortion was legal?

A Yes.

Q Did you recommend that abortion for her would be medically necessary?

A Yes, she obtained one.

Q Have you ever had pregnant teenage patients who were drug or chemical dependent or alcoholics?

A Many, unfortunately. We—particularly at Saint Paul-Ramsey, we saw so many teenagers who were addicted drug abusers or alcoholics and they were aware of their inadequacies as far as parenthood is concerned. They—they seemed to just subconsciously realize that they couldn't parent a child and do it properly and it was [91] rather pathetic to see how they—their attitude toward the thing. They—in a way, they—it was very sad dealing with these young women.

And also, the women who are blind, the mentally retarded, even they would realize their inadequacies. Something seems to be subconscious that makes these women—they really become very objective about their own abilities.

And they worry, too. The—the ones that are on drugs worry about drugs that they have taken in early pregnancy affecting the pregnancy. And—

Q Is the physical risks for these women also higher?

A Oh, of course, because—

Q What could happen to them?

A Well, they're—a woman that is abusing drugs and—and alcohol and not eating properly can have all matter of nutritional deficiencies and is more susceptible to toxemia and infection and—

And prematurity is one of the big factors in teenage pregnancy. So many of the children deliver prematurely and they—the incidence of disease among the children. Particularly, nervous disorders are much higher. It's been estimated—again I'm quoting from "Teenage Pregnancy in Minnesota," page 52—that children born to females under the age of 15 have 2.4 times the number of brain [92] and nervous system disorders as children born to women over 15 and they're more likely to be of low birth weight and they have increased mortality rates, increased childhood morbidity and handicapping conditions such as blindness and deafness and cerebral palsy, and learning and behavioral disabilities.

Q You've discussed the physical biological effects of continuing pregnancies for teenagers. What are some of the emotional and psychological ramifications that you have seen in your career with pregnant teenagers?

A I think that's been the hardest thing for me to face and—and that was one of the reasons I wrote the editorial for "Minnesota Medicine" back in 1970 about teenage pregnancy in Minnesota. We were tolerating it. They report—there was a report of some pediatricians from General Hospital here on the—what happened to the infants of children under 15 that were delivered and how—what a high death rate there was among their offspring and the high incidence of a complication.

And there was—they reported on over a hundred cases, as I recall. And there was not a word said in the paper about averting these pregnancies, but allowing these youngsters, all 15 or less, to go through a pregnancy. And it was—it seemed—I pointed out the—what I considered the immortality of the situation [93] when we allow children to have children.

Q What about the psychological or emotional effects on children who have children?

A Well, it's not only hard for the mother involved, but it is—it has been definitely shown in numerous studies that these

children suffer from more psychological disorders, behavior problems, lower mentality, than—than in controlled groups.

And this—the pattern goes from one generation to another. It's sort of a vicious cycle. These are more apt to belong—to be born to women in a low income group on welfare and it's very difficult. They're—they're apt to become pregnant again, much more apt to—to become pregnant within the next two years than a—than a controlled group of the same age.

And they're sort of trapped in their environment and this vicious cycle of reproduction and welfare. And the children that are born into this type of situation tend to repeat the same thing. And I've lived long enough now to see this and see two or three or four generations, actually, of children having children. And it—it's very sad.

Q Have you ever had patients, teenage patients, who have gone through pregnancy, gone through childbirth, and whose mental or emotional wellbeing has been undermined [94] because of that experience?

A Yes. I think the psychological trauma is tremendous and that was one of the hardest things for me to face was to see the disillusionment in these youngsters as—they didn't know, many of them, even how they got pregnant, scarcely—the young ones—and they were products—the situation was something for—over which they had very little control.

I can think of children that I saw, their mothers brought them in. They were mothers who were seeking popularity in dating for their young high school daughters and would push them into social situations they weren't able to handle, allowing them to go to all night proms and that sort of thing at the age of 14. And these girls then would become pregnant and the mothers would bring them to me and be greatly distraught.

And then to have to—take care of these young women and— and follow them through a pregnancy, see them having to drop out of school, become socially ostracized, become more and more disillusioned and—and isolated, bitter. And their lives literally spoiled, their education stopped and at—and in that—at that time, and there still is a stigma to teenage pregnancy.

Q Have you ever had any teenage pregnant patients who've either attempted suicide or have been hospitalized for [95] psychiatric care?

A Yes. I saw a number of them at Saint Paul-Ramsey because in a—when you have a hospital service like that, you're aware of the inpatients in the other departments and I—a number of patients during the years that I was there would come in to the psychiatry ward with over—as overdose victims and it would turn out—I would be called to see them and it was amazing how many of them were pregnant or fearful of being pregnant.

And this has been pointed out in an article that we—that has been quoted frequently by Teicher, 1980, in which he pointed out that—that 22 percent of the adolescent suicidal cases were girls who thought they were pregnant or were pregnant, actually. And that is—

Q To follow that up—

• • • • •

Q Do you have an opinion as to whether the—whether or [96] not the psychiatric consequences of having an abortion are more or less than the psychiatric consequences of a teenager going through childbirth?

A From my experience, and also this is supported by numerous psychiatric studies that have been done comparing groups of women who have had abortions and women who have been denied abortions. Also, there have been studies done of the offspring of the women who have been denied abortions. And there's no questions that there is a higher incidence of mental and psychological disorders among the group that are compelled to go through pregnancy or denied abortion.

This has been repeatedly pointed out. There's a chapter in this—my textbook here by Figa Talamanca (ph), an Italian woman psychiatrist. A very extensive study. And she reviewed all the European and—and American literature on this subject and comes to the conclusion that as far as psychiatric complications are concerned or even minor psychological disturbances, that the abortion is less dangerous.

Q Is this true for minors as well as for adults?

A I—I think it's even more so because there are more—it's a more—pregnancy is a more complicated thing for a teenager than it is for an adult. So obviously, termination of that pregnancy is going to bring more relief.

[118] * * *

Q How many patients—pregnant patients seeking abortions do you think that you have personally seen and counseled as you've described?

A Minor, you mean, or—

Q Yes, minor.

A Oh, it runs into the thousands.

MR. GALUS: What is—what is minor? Under 18 or—

MS. BENSHOOF: Under 18.

A I'm sure it must be thousands. It would be hard to count, but I—it is several thousands of minors.

Q So you think you have a pretty good idea about how minors feel about abortion and pregnancy?

A Well, I—yes, I would expect so.

Q Based on this experience, what are any of the special problems that minors—that you see from your experience that minors have expressed to you or your patients have expressed to you?

A Well, it's—sometimes it's almost overwhelming the number of problems that these poor teenagers come in with. It's almost heartbreaking. You just wonder how they can keep from breaking under the strain.

I've already described the distances that some of [119] them have to come and the time schedules that they—they have to juggle in order to—if they want to protect their privacy; how difficult it is to make phone calls, even; and to raise the necessary funds just for these services; and how badly some of them need support and—and have no one to turn to.

I'm also impressed by the number of broken homes that these youngsters come from. I pulled at random—had them pull a dozen charts from the 1984 patients I had done in Duluth—

Q Minors?

A Minors.—this—this week and they were just simply random cases and—there were 12 of them. And 7 of them did not have fathers. They had stepfathers, but their own fathers had left and they were—and one—one of—there was one that was dead, as well, so that—but here were 7 out of the 12 that—that were the products of broken homes with no father figure in the house.

And the problems that some of these young women had were just so sad. They—couple of them didn't have a place to live. They—the harmony—there was so much disharmony at home that two of them weren't even living at home.

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[121] * * *

Q When you consult teenagers, do you encourage—have some of them told one or both of their parents?

A Of the—the study that was done here in Minnesota—Ron Anderson at the University of Minnesota, and I think that was done about 1981—1980, I believe, or '81.

Anyway, in—in interviewing these patients, it was found that about 75 percent of them hadn't told both parents. Out of that group, another 25 percent would be willing to, but—but only about a third of those would be willing to tell both.

Q So do you have any idea about how many have told one or—

A How many had told one?

Q Right.

A Well, 75 percent had told one, but they hadn't told both. They'd be willing to tell one, but not both.

Q Right. I think your first testimony was that 75 percent had not told both.

A Yes.

Q I'm just wondering about—

A But they told one.

Q Some of them had told one. Is that your testimony?

[122] A No. I—I think that a—as I understood it, they'd all—the 75 percent had told one, but they hadn't told two; and that the—the remaining 25—that when—when it's—if you were to take all 100 percent of the group, 50 percent would not—

would not go along with the law. They will—they'll go to court. And that's the way things are working out when they're giving the—given the option.

About half of the minors that we see go to court and about half opt for notification and— isn't that right? I think that's what the figure—the way the figures go. Anyway—

Q What reasons do they give you for not notifying one or both parents?

A Oh, they are—they are numerous. They may be—be that they fear opposition, even to the point of violence and restraint, and they know that their positions—their parents' attitude on abortion or they're just not able to communicate with them.

Another common reason is that they don't want to hurt their parents. It's a matter of love for their parents and they don't want to spoil the relationship that they have with their parents.

Another reason is the health of one of the parents. Or a broken home where they've never seen or had very [123] little contact with the parent and they object to having to notify that one. They don't object to the—to the one person, one parent, but they objected to notifying the second one. So there are all kinds of situations.

But with the high incidence of single families—single parent families that we're seeing now, it's becoming more and more difficult to find that second parent. In this group of 12 patients of charts that I mentioned that I just pulled at random, it was amazing how there were—

There was one young woman whose mother hadn't been found since—or heard of since the girl was two years old and she was living with her grandmother. Her father had since gone to Chicago so he had to be notified, but the girl had to go to court anyway because the father—because the—they couldn't prove the death of the mother. There was no birth certificate, but they couldn't find her either so she went to court with her grandmother just to expedite the thing.

And it—it's—the situations are just too numerous to—to list almost. There are so many possibilities and so many very valid reasons why they—they simply cannot tell both parents.

Q Do you believe that it's medically contraindicated in some cases to tell both parents, one or both parents?

[124] A Absolutely. Some of these—there were two of the girls out of the twelve that said their stepfathers weren't speaking to them, that they had stopped communicating, and one had thrown her out of the house and I think that this is not the kind of—of reaction that is helpful in any way to family communication or helps to build better communication.

You can't suddenly expect a family that's not been communicating or talking freely about sexual matters to suddenly start just because the girl is pregnant. She's not going to suddenly open up, nor are the parents going to open up.

Q Do you have any examples from your patient history, and not necessarily limited to since this law, where teenage patients have reacted to trying to keep their pregnancies from their parents.

* * * * *

A There are many examples of situations in which patients have tried to keep their pregnancies from their families. And of [125] course everytime a patient goes to court here, they're—they're—that's what they're trying to do. And they—they have many difficulties sometimes in protecting their identity and— and keeping their parents from knowing where they're going and being able to get the family car. All of those things that make it very difficult, or having—

I remember a description last year of a patient, a teenager, who—she's now a counselor, who's describing to me how before abortion was legal, how she as a young teenager made an airplane trip all the way to New York early one morning and had her abortion and came back that same evening and her parents never knew she had left. And how—she just started to sweat, practically, while she was telling it to me and cried a little bit because it made such a—it had been so difficult for her to get through.

She was so happy that things were easier now for teenagers that they didn't have to go through what she did. But even with the law changed, they still have considerable trouble in protecting their privacy.

Q You mean the—the Roe v. Wade change?

A Yes, since *Roe v. Wade*. They still—the problems are still not solved because there are still problems with parents who will not be supportive of the child.

[126] Q Have you encountered patients where the parents have tried to stop an abortion?

A Yes, I have. One of the outstanding examples is a patient who was a deaf patient who was probably a victim of incest, although we never could document that, but very reluctant to—would give us no—could give us no story about the paternity.

She was a fairly intelligent 15-year-old and she—when she became pregnant, her mother took her out of school and kept her locked in the house. And it was only because she had a social worker on the basis of her deafness, the social worker discovered she was pregnant and wanted—and realized just what the situation was at home and managed to get the girl down to the clinic and make a diagnosis and get her down on a Saturday when she supposedly—had taken the girl to a birthday party for a couple of hours and we performed the abortion on the girl.

And—and this was prior to the notification law, just before—it was summer of '81 before the law became effective. And this patient—obviously, her mother was very violently opposed to—to abortion and was doing everything to keep the girl—to force her to continue the pregnancy.

Q Have you every had any teenage patients who have tried [127] to abort themselves to keep their pregnancy private?

A Yes, I have. And one outstanding case was a 14-year-old girl came to—to Saint Paul-Ramsey who—her friends had tried to help her induce an abortion by introducing some metallic object into her vagina and had torn her several times. And she bled and the pregnancy had continued in spite of this.

And she finally arrived at Saint Paul-Ramsey with—at about four or five—four months pregnant, I believe, or five months, and the cervix was so scarred, it would not dilate with ordinary means and we had to do a hysterotomy, a—similar to a Cesarean section, a uterine incision, in order to deliver her of this pregnancy.

Q Did this affect her future childbearing?

A Well, it means that she will always have to have Cesarean section.

Q Subsequent to the law or even before the law was in effect, have you received referrals on minors from teachers or social workers advising you that parents should not be involved?

A Well, yes, I—very recently, within the past year, a very sad case up in Duluth of a counselor from one of the Canadian border towns, a high school counselor—

Q About how far away from Duluth?

[128] A About 200 miles from Duluth. He brought down a 16-year-old girl with whom he was—that had come to him finally in desperation for help. Her parents were both school teachers in the school system in this town and there was a very active anti-abortion group in that community. And any girl that would—that would seek an abortion would be so ostracized and if a parent had supported a daughter, he, the counselor, felt that they would lose their jobs, actually on the school board, but—because the school board was so actively opposed.

So her parents were very much opposed to abortion and when she became pregnant, she knew that she could not get any help from them and she was pretty desperate and she sought help from this high school counselor who was the father of several daughters himself. And he realized that this girl would have to be—would be forced to continue her pregnancy, under the circumstances in that small town, that nothing else could ever happen.

And he wrote this in a very powerful letter to me after he had been to Duluth and he said if she had had to continue the pregnancy, she would have only been given a rose, but—and no—and—but she would have been subsidized, also, for continuing the pregnancy. But because she sought to take her own initiative and—seek the abortion, that she would have been very severely [129] punished.

So he arranged some school project, some trip, whereby she could be excused from school and he personally drove her to Duluth. And while she went through the court procedure, he was telling us about the situation at home.

And then he drove her back that night and it was difficult getting it all in one day because the girl needed laminaria, and she needed—first, pre-counseling, and then laminaria, and then the

court—I mean the court procedure and the whole business all in one day and drive back to—to this town and it was—it was very difficult. But he was very sincere and it was quite a touching story.

Q Have you encountered situations where one parent has come in with a teenage patient and that one parent does not feel they can notify the absent parent?

A Frequently. In those cases, of course, it is necessary then for the minor to go to court. And so frequently when they go to court, they have a parent with them.

Q What reasons do the parents give you as to why they can't tell the absent parent or spouse? I guess it could be either.

A Well, it may be a matter of not wanting to renew the relationship, if it's someone—if the parent has [130] deserted that child and the spouse and there may be no reason.

I know one case recently in which the mother had been denied custody of her daughter and yet she and her father had to go to court and they—or notify this mother who had been denied custody. These strange situations come up all the time so that the two-parent involvement makes it doubly difficult.

Q Do you ever have any situations where the mother of the teenager is a battered woman?

A Yes.

Q Could you explain?

A Well, it—I don't understand what there is to explain. I mean some women are battered and—

Q Did they believe—did they express to you that they believed they would be battered more if the father of the teenager were informed?

A Oh, I—yes. Oh, I see what you mean. The family relationship would be indeed strained; and if it was bad to begin with, it would be doubly so. A problem pregnancy like that, particularly if there is trouble between the spouses, the parents, why it's just only going to aggravate it.

Q Are any of your teenage patients victims of incest?

A Unfortunately, yes.

[131] Q Do you think it's medically advisable to notify the father when the father is—of the teenager is also the parent of the fetus?

A Well, these situations are very delicate and I—I couldn't begin to set down any rules. I think each one has to be handled individually. But there are many situations where it's not wise to notify one parent or the other, yes.

Q Have—

A Each one has to be judged on an individual basis.

Q Have parents come to you stating that the absent parent is ill or another reason why they feel it would harm the absent parent to be notified?

A Well, illness is a very common reason that's given; particularly, potential heart attacks, and—and I think of women that were dying of cancer and the father didn't want the mother to know.

Q You've had a patient where the patient's mother—the teenager's mother was dying of cancer?

A Oh, yes, yes. I've had several of those. That's not uncommon.

Q And you've actually spoken to their father?

A No, I—I can't swear that I spoke to the father, but I certainly was aware of the situation and knew—knew what was going on.

[132] Q So the one parent felt that to tell the dying parent about the pregnancy would not be healthy?

A Well, would—would be cruel. Not necessarily unhealthy, but not a kindness, shall we say. Often these—this refusal to—communicate is a matter of kindness and love; it's not a matter of being difficult or uncooperative or—it's a matter of consideration.

Q Have you had any patients who do not know who their father is?

A Yes. That was a very—there was a very funny situation that I just learned about at the Fertility Control Clinic in Saint Paul in which—

Q You're working there now?

A Well, I stop by there on a regular—yes, I'm working at a clinic there two days a week and I—I know—pretty well have my finger on the pulse of what's going on at the Fertility Control Clinic.

And there was a two-week delay for one minor simply because when they notified the so-called natural father, he refused to acknowledge his paternity and so there had been considerable debate over who the father was. And so then the battle ensued between the mother and this man as to the paternity.

And after various documents had been brought in and [133] this had been debated for a couple of weeks, he finally—he must have been a fairly good Joe because he wrote a letter saying that whether he was the father or not, he would give his permission for this girl—minor to have her abortion. He didn't know who the father was and neither did anybody else, apparently. So that was—but that was an unnecessary delay, purely resulting from the law.

Q You say this particular patient lived with her mother and there was this two-week delay because she didn't—because there was a question as to whether—who her real father was?

A Correct, correct.

Q How do decisions about confidentiality and privacy relate to your role as a doctor treating a teenage patient?

A Well, they're going to be much more cooperative and better patients.

Q Well, let me just rephrase that. Is confidentiality a medical and professional concern for doctors? Is it part of treatment?

A Of course, because with confidentiality goes relaxation and peace of mind. If you have a relaxed patient that isn't scared to death and—or worried, tense, why they're going to be a much easier patient to operate on, particularly under local anesthesia.

[10] * * *

(JULY 12, 1985)

BY MS. BENSHOOF:

Q You—you stated that nine—that you—it's your belief that 13 hospitals in Minnesota perform abortions?

A Well, it's available. They can be done. I shouldn't say they all are providing the service as a hospital, but they wouldn't refuse a staff physician if they wanted to bring one

there to be done. But they don't regularly have abortion clinics where anyone can just walk in off the street.

There are—the—the only one of which I'm aware—there are two of which I'm aware would provide them. That would be Hennepin County General and Saint Paul-Ramsey, where a patient could just go into a clinic and have one. Otherwise, any hospital, such as Mount Sinai here in Minneapolis, wouldn't perform them, but a physician on the staff could bring one in.

* * * * *

[14] A Well, it entailed many problems because we had to—because of the—the use of laminaria in the teenagers, for example. It is considered medically advisable in the young, immature patient with a tight, narrow cervix to insert laminaria.

This is what it is (indicating). It's actually the—the stem of the seaweed. And this is inserted initially and allowed to remain in the cervical canal for several hours; preferably a minimum of 6 hours, up to 24, depending upon the stage of the pregnancy.

And this swells up and becomes three or four times this size and helps to soften and dilate the cervix so that it is possible to later introduce the cannula, such as this (indicating), through the cervix without causing any lacerations or damage to the cervix.

In teenagers, ten weeks and over, it's—unless they have an unusually patent canal, cervical canal, it's advisable to do this procedure and so it really involves two procedures. Sometimes we send them home overnight and have them come back the next morning and remove the laminaria and perform the procedure.

So the court process added to this meant that there was really much more than could ever be done in a—in one day, particularly where patients had to come a long distance, get up early in the morning and drive to [15] a clinic. They—and it's necessary, according to the court system in—in use at the present time, they have to have a pre-counseling exam and a—a session and examination and be instructed—given informed consent and go to court; and then come back, get the laminaria, wait four to six hours as a minimum, and have a procedure, and then

to go home a few hundred miles. You see, it's—it's an impossible situation.

So what happens is that in many of the clinics, the laminaria is omitted and the tendency is to—to—for the sake of the patient; otherwise, she's not going to get the procedure done at all. So just from the standpoint of time, it made it very difficult.

* * *

[21] * * *

Q Dr. Hodgson, you were discussing the problem of the court and laminaria scheduling. Do you believe that not using laminaria on a minor increases medical risks?

A Yes.

Q Are there any other effects of this law that you believe increase such risks?

A Yes. The delay is the—the prime effect.

* * *

[23] Q Have you observed minor patients of yours when they've come back from the court process?

A Yes, and some of them are wringing wet with perspiration. They're markedly relieved, many of them. They—they dread the court procedure often more than the actual abortion procedure. And it—it's frequently necessary to give them a sedative of some kind beforehand.

[27] * * *

Q Where do they wait? In the clinic?

A In the courthouse. They will have long waits and—so it is not easy for them. And many—and they haven't eaten. They're—we don't want them to come back for a procedure with a full stomach so they only can have liquids in the morning so they're hungry, they're tired, they've been up and come a long distance.

Q Can they have lunch?

A No. So then they come back to the clinic and—for—if they receive their authorization, which they do, so I—I don't see what difference it really makes. They just go through this routine. They're not turned down. They're—they're—they aren't denied, but they're just delayed. Then they come back to

the clinic and they have to receive their preoperative medications.

Q What is that?

A An anesthetic—I mean Atropine and Fentanyl, which is an analgesic, and atropine prevents—is a preoperative medication to reduce secretions and prevent nervous reactions which could cause the blood pressure to drop precipitously during any kind of a procedure such as this. And frequently, we have to give an additional sedative of Valium to the teenager, particularly. Then they go through the procedure and they're—we have [28] to hold them in the delivery room—in the recovery room to be sure they're not going to bleed or have problems afterward.

If they require laminaria, that's a new—it's an additional problem. Are we going to give it to them that afternoon, make them stay all night in a hotel and come back the next day for the procedure when there may or may not be a physician available?

I've frequently stayed overnight where I hadn't planned on it up there simply to take care of some of these. I was doing cases up to 16 weeks so that the—it was necessary for the laminaria to remain in a longer period of time.

But the trend—the tendency, of course, is the patient said, "I have to get home. My parents"—if—if their parents aren't with them, they—they have to get home and they have a long way to go, maybe driving all night. And so the tendency, of course, is to cut corners, which is not right for the patient and it's hard on the physician.

And—but after the procedure is completed and they are discharged from the delivery room—the labor room—recovery room, they then have to drive a long distance. So this all is extremely burdensome and it's—it's hazardous, often.

[29] I hesitate about sending some of these women on a long trip. Many of them are unaccompanied. Even whether—where they're with parents, it's very burdensome; and if they're with young people, it entails a lot of risk.

I don't see where the—I fail to see—and I've tried to see where in any situation the additional burden of this law is of any benefit to physician, patient, or society.

* * *

[49] * * *

Q Well, do you have examples where you've contemporaneously recorded the efforts to see that you comply with the law on particular patients?

A Well, yes. One—I dictated—in my frustration, I dictated into my dictaphone when I was working over at Midwest Health Center in Minneapolis. This was a—over a year after the law went into effect and I had run into so many problems with the minors' scheduling that I—I thought this I must record and I dictated into the dictaphone and—and they had it transcribed and these are—are my dictations that I made in August of—the end of August and first part of September in regard to scheduling.

And these were patients, I had seen them all and was involved and actually contacted the court myself in [50] some of the situations. And I can briefly condense this, unless you want me to read it verbatim, as I dictated—

Q Well, just give the example—

A Essentials.

Q —of what your observation was.

A On 8-19-82, I performed an abortion on L.H. who was 15 years of age. She had been delayed one week in getting into the court because of the back-up in their appointments. They were—apparently, they were having a three-day seminar and they were making no appointments whatsoever for one full week so that meant that everybody was put off a week.

And then, in addition, there were—it was busy and there was a real backlog.

Q Did that mean that you could not go ahead with an abortion on your minor patients who needed to go to court?

A At that—for that particular week, yes. And she was ten weeks pregnant and she is approaching the twelfth week; and she was also only 15, and she had been delayed for a whole week.

Then I—following this, I saw another 17-year-old who had been delayed exactly one week from the time she was diagnosed and ready to be done, simply because of the back-up in the court system.

A third young woman thought she had an appointment [51] today—this is still 8-19-82—at the court which she had made herself. She had gone—bypassed the clinic and made the appointment, she thought, with the court.

Q This was a patient of yours?

A Yes. And she—they—the court—she went to court and they were unable to confirm her appointment and they refused to see her so she came over to the clinic. And she was planning to leave the following day, the 21st of August, to—with a vacation with her parents to South Dakota for three weeks.

She was at that time ten weeks pregnant so we tried to get her into court immediately so she could be done before she had to go with her parents on this three-week vacation.

And when our—our counselor tried to get her into court the following day—the 20th—they refused saying they were all filled up; they only accept five patients. So I finally had to intervene and I called over and talked it over with David Knutson, the public defender, and he gave her a special appointment for 10:00 o'clock the next morning.

* * * * *

[142] BY MR. GALUS:

Q Doctor, did any of those 12 patients suffer any complication, medical complication, following their abortions?

A Not that I'm aware of, medical complications. I think that there was considerable emotional and psychological [143] trauma.

Q Due to various sources?

A Due to various problems, yes.

Q Even prior to the enactment of the parental notification statute and its becoming effective, at least in part, in August of 1981, even prior to then—

A Oh, absolutely.

Q —didn't you observe severe anxiety and stress among your—

A Oh, absolutely.

Q Excuse me. I'll have to finish the question. Even prior to this law, haven't you observed severe emotional distress and anxiety among your teenage abortion patients?

A I wrote a chapter on that in 1975 on the emotional stress that these minors undergo. And it is our hope that we can help eliminate of them as part of their health care.

* * * *

[179] * * *

Q Doctor, based upon your experience and training, is it your opinion that a—an unplanned pregnancy for a minor woman is an extremely traumatic event?

A Yes.

Q Do you believe that minors in such situations; namely, confronted with an unplanned pregnancy, tend to be under extreme psychological stress?

A They're under psychological stress because of the unplanned pregnancy, not because of the termination. The termination brings relief.

Q That wasn't my question. I'm not—without reference [180] to the termination, do you believe that pregnant minors who find themselves with an unplanned pregnancy tend to be under extreme psychological stress?

A As long as they're pregnant.

Q Do you encourage parental involvement in every instance?

A Not in every instance because there are a number of times that parents are not qualified to be supportive.

Q Do you think it is extremely important—that parental involvement's extremely important?

A I think it's very important if it's good.

Q Do you think it's only in the rare case where it's impossible to obtain?

A Unfortunately, it's rather frequent that it's not good. With the number of broken homes, as I've pointed out, and the frequency of alcoholism and—and unfortunately, we have a lot of parents that I do not consider to be good parents who do not consider the welfare of their child ahead of their own feelings.

Q What are the benefits of parental involvement for the youngster or the young woman who finds herself faced with an unplanned pregnancy?

A Well, good parental—and if it's a good parent, obviously, that's ideal and I would encourage that they—their protection and moral support and economic support and health support. In every way, it's very helpful. [181] I've always encouraged parental involvement if I thought it was a good thing.

* * * *

[182] * * *

Q In connection with your testimony in the Bellotti case, do you recall being asked the following question and [183] giving them the following answer: "Question: Have you also encountered situations where parental involvement would be helpful? Answer: Yes, indeed. I encourage it in every instance. I think it is extremely important and to be sought after, but there is the rare case where it is impossible to obtain."?

A Yes.

Q Do you recall giving that testimony?

A Yes.

Q Okay.

A I still feel the same way.

Q Do you believe that young pregnant—young women often have exaggerated or unfounded fears of adverse parental reaction should their—one or more of their parents be notified of the—their decision to have an abortion?

A Oh, absolutely.

Q And that's the usual situation, is it not?

A Not—sometimes it's very real. It—it can be either. It can be imaginary and it can be very real.

* * * *

[199] * * *

Q Do you believe in the compulsory termination of pregnancy for any category of women?

A No.

Q Whether by age or whatever?

A Well, I—I think you get to a gray area where perhaps we should have compulsory pregnancy in the very young, the children 11-12 who don't know and it's hard to explain to them

what a term—I don't think we, as a society, should allow these children to be forced to go through a pregnancy because it is—it is just cruel and unusual punishment for something that—that they really are not responsible for in our society today.

Q I think you misspoke and referred to compulsory pregnancy in the context of that—

A I'm sorry. What?

Q I think you misspoke and referred to compulsory pregnancy in the context of that last answer.

[200] MR. PENTELOVITCH: You meant compulsory termination.

A Oh, I'm sorry.

Q Do you think there's a case to be made for compulsory termination for that—that particular group?

A Yes. I don't think they should have to undergo compulsory pregnancy, certainly. And I don't think they're old enough to know what they want at that—what they really do want because they aren't—and it's very difficult for a youngster that age or as well as for mentally retarded to understand.

Q And what age group are you referring to in that connection?

A Under 14.

Q Do you believe that as a general matter, it is pretty obvious that the best medical solution once pregnancy has occurred in a teenager is the interruption of that pregnancy?

A Up to a point. Again there are always exceptions.

Q Do you believe, based upon your experience and training that presumptively that's the best medical solution in that circumstance?

A The better of some bad alternatives.

Q Abortion is a bad alternative?

A Is the better of bad alternatives. Obviously, we would [201] prefer to intercept in this thing before the—a teenager ever gets pregnant. Primary intervention is to be preferred, but as long as—once pregnancy has occurred, if we haven't taught that patient to contracept or to abstain or whatever, if we haven't interfered at that point, then society, certainly, the next best thing is to intervene and is to intervene as early as possible.

Q And by intervene, you mean terminate the pregnancy?

A I mean termination of pregnancy. And that is—medically that is safer; and psychologically it's better. It's better for society. It's better for that individual's future life and family and everything.

Q Doctor, in your opinion, is it the normal, healthy reaction of the average teenager to want to terminate her pregnancy?

A Yes.

Q And is it your opinion that that's essentially a normal type of reaction?

A Yes.

Q And is it further your opinion that the ones; that is, the teenagers or the minors, who want to continue the pregnancy are the ones that need psychiatric help, generally speaking?

A Well, they're more apt to. They are the more dependent, passive individuals who do not live in the future. [202] They're not looking ahead.

Q Doctor, based upon your experience practicing in Minnesota since August of 1981, are you aware of any single instance in which any of your minor patients has sought an illegal abortion or attempted a self-induced abortion as a result of any of the requirements or obligations imposed by the parental notification statute?

A I'm not aware. I have suspected a few.

Q You have suspicions?

A Yes, but I have no proof. I can't document it.

Q Again, based upon your experience in the practice of medicine and more particularly in obstetrics and gynecology in the providing of abortions in Minnesota since August of 1981, are you aware of a single instance where parents have prevented, through physical restraint or otherwise, a daughter from having an abortion by virtue of any of the requirements or obligations imposed by the parental notification statute?

A Well, I don't think that's the effect of the law. Where the law—the law, of course, allows—they—it's mainly a delay, but it is—as far as it causing parents to become violent, I don't think that's the case.

* * * * *

[207] Q Now, of those patients you have seen, can you think of any case where the patient benefited from the parental notification statute, either by giving notice to the parents or by going through the court procedure?

A I've honestly tried, because afterall, it is a law in our state and I have to abide by it. I have really looked and given it considerable thought and I honestly think there is no benefit whatsoever.

Q And there hasn't been to your patients?

A It has not been for my patients nothing but problems. And the very fact that they're all granted anyway, you wonder, well, what is accomplished. I think we have one benefit. May I mention that? I think that it has helped to educate our judiciary in regard to the problems of teenage pregnancy, and that's good.

Q So that's a benefit to the judges more than to the patients?

A A benefit to society.

Q But not a direct benefit to your patient?

A Not the patients, no. I think they—they have—they've suffered.

* * * * *

PLAINTIFFS' EXHIBIT 122

PERCENT IN SECOND TRIMESTER

Minnesota Residents						
	1978	1979	1980	1981	1982	1983
≤ 17	18.4	18.7	21.9	20.1	20.6	23.3
18-19	14.7	14.0	16.6	15.1	15.2	16.5
20-24	10.0	10.4	11.2	10.3	10.6	11.4
25 +	7.8	7.4	8.5	7.5	8.0	7.4
TOTAL	11.7	11.6	13.1	11.5	11.5	12.1

Plaintiffs' Exhibit 122
(as corrected by Defendants)
3-81-538 Civ.

DEFENDANTS' EXHIBIT NO. 19
 TEENAGE PREGNANCY IN MINNESOTA D.EX. 19

Fetal Deaths

Approximately 57 of the pregnancies in Minnesota teenagers age 15 to 19 terminated in fetal death. This is approximately 0.5 percent of the pregnancies.

Risks Associated With Teenage Pregnancy

Statewide data on maternal morbidity is unavailable. However, national studies provide statistics on some of the risks associated with teenage pregnancy. For example:

1. Maternal mortality is 60 percent higher for women under age 15 and 13 percent higher for women 15 to 19 than for women 20 to 24.
2. Pregnant females age 15 to 19 are twice as likely to die from hemorrhage and miscarriage than pregnant females in their 20's.
3. Pregnant females 15 to 19 are 1.5 times more likely to die from toxemia than those who are pregnant in their early 20's.
4. The pregnant female under 15 is 3.5 times more likely to die from toxemia than pregnant females in their 20's.
5. Adolescent females are 1.3 times more likely to develop nonfatal anemia or toxemia during pregnancy than women 20 to 24.
6. For females under 16 years, pregnancy may deplete nutritional reserves needed for their own growth and place them at greater risk to other health problems.
7. The adolescent female is more likely to begin labor prematurely and have a difficult labor, thereby increasing the hazards to her and her baby.

8. A baby born to a female under 15 years is 2.4 times more likely to die in its first year than one born to a female 20 to 24 years.
9. Babies born to women under 20 are from 1.3 to two times more likely to be of low birth weight than infants born to women 20 to 24. Low birth weight is associated with increased risk of infant mortality and childhood morbidity and handicapping conditions, such as blindness, hearing disorders, cerebral palsy, and learning and behavioral disabilities.
10. Children born to females age 15 and under have 2.4 times the number of brain and nervous system disorders as children born to women over 15.

Poor health status is frequently correlated to low socioeconomic status. Of the teenagers who become pregnant:

1. Eight of ten who become mothers at or below 17 years of age never finish high school.
2. Three of five pregnant teen brides are divorcees within six years.
3. Teenage mothers are less likely to work and more likely to be on welfare than mothers who first give birth in their 20's.
4. Young mothers will have 1.3 times more children than women who begin to have children at age 20 to 24.

The data presented document that teenage pregnancy is an issue in Minnesota, as it is nationwide. Although the data shows that only 3.4 percent of Minnesota's teenagers are faced with a pregnancy, the alarming fact is that pregnancy among teenagers is increasing at a more rapid rate than pregnancy in other age groups. The reasons for this increase are complex. Among the motivational factors of teenagers risking pregnancy are lack of information on contraception and consequences of pregnancy, rebelliousness, low self esteem, and a sense of limited life alternatives. Programs and policies must be developed which

address these factors and respect the varied developmental stages of this population.

During the 1980 legislative session we presented concerns for consideration in studying teenage pregnancy. At this time we would like to review those issues and offer recommendations for policy consideration.

1. Many parents believe that sex education should be taught in the home, yet many feel incompetent to approach the subject.

How can the state reinforce the perspective of these parents and assist them in meeting their responsibilities?

2. Although teenagers who become pregnant receive the most attention, over 60 percent of Minnesota teenagers are not sexually active.

What can be done to support responsible decisions relative to sexual activity?

3. Most teenage males believe that contraception and pregnancy are the responsibility of the females.

What programs can be implemented to encourage male involvement in responsible sexuality and reproductive decisions?

4. Of the 5,240 teenagers having abortions in 1978, 51.6 percent reported never having used a method of family planning and 35.9 percent report not using family planning at the time of conception.

What legal and other barriers exist to the provision of family planning services to Minnesota teenagers?

DEFENDANTS' EXHIBIT 35

MINNESOTA REPORTED ABORTIONS—1980-1983

1983 Minnesota Reported Abortions

Average gestation weeks for minors
(Patients age 17 and under) = 10.73

Complications per 1,000 for minors
(Patients age 17 and under) = 6.98

Complications per 1,000 for adults
(Patients age 18 and over) = 9.20

1982 Minnesota Reported Abortions

Average gestation weeks for minors
(Patients age 17 and under) = 10.36

Complications per 1,000 for minors
(Patients age 17 and under) = 6.39

Complications per 1,000 for adults
(Patients age 18 and over) = 6.74

1981 Minnesota Reported Abortions

Average gestation weeks for minors
(Patients age 17 and under) = 10.41

Complications per 1,000 for minors
(Patients age 17 and under) = .00

Complications per 1,000 for adults
(Patients age 18 and over) = 2.86

1980 Minnesota Reported Abortions

Average gestation weeks for minors
(Patients age 17 and under) = 10.73

Complications per 1,000 for minors
(Patients age 17 and under) = 2.58

Complications per 1,000 for adults
(Patients age 18 and over) = 2.26

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CtNo 3-81-538 Civ
Def. EXHIBIT 35

DEFENDANTS' EXHIBIT 62

MINNESOTA SUPREME COURT ORDER

DATED 8/13/81

STATE OF MINNESOTA
IN SUPREME COURT

State of Minnesota, Supreme Court

I hereby Certify that the foregoing instrument is a true and correct copy of the original as the same appears on record in my office this 3rd day of March 1986.

Wayne Tschimperle, Clerk of Court

By: /s/ WAYNE TSCHIMPERLE
Clerk

In Re Procedure Relating to Minn.
Stat. § 144.343, subd. 6 (1980).

ORDER

WHEREAS, the Minnesota Legislature recently amended Minn. Stat. § 144.343 (1980) to prescribe procedures for the notification of parents, guardians, and conservators prior to performing abortions on certain persons, 1980 Minn. Laws ch. 228, § 1; and

WHEREAS, Minn. Stat. § 144.343, subd.6(c) (1980) details the procedure to be employed in the event a pregnant woman elects not to allow the notification of a parent, guardian or conservator contemplated by Minn. Stat. § 144.343, subd. 2 (1980);

IT IS HEREBY ORDERED that the following procedure, effective this date, be employed to facilitate prompt judicial consideration of a petition pursuant to section 144.343, subd. 6(c):

(1) The petition shall initially be filed in and considered by the county court or, in the case of Hennepin and Ramsey Counties, in the district court, juvenile division. Section 144.343, subd. 6(c)(i)(ii)(iii).

(2) An order denying the petition shall be appealable on the record to one judge of the district court, including the district court of Hennepin and Ramsey Counties. Section 144.343, subd. 6(c)(iv).

Dated: 8/13/81

BY THE COURT:

By: /s/ ROBERT J. SHERAN
Chief Justice

SUPREME COURT
FILED
[AUGUST 14, 1981]
JOHN MCCARTHY,
Clerk

Court No. 3-81-538 Civ
EXHIBIT 62

DEFENDANTS' EXHIBIT 62a

MINNESOTA SUPREME COURT AMENDED ORDER
DATED 6/14/84

State of Minnesota, Supreme Court

I hereby Certify that the foregoing instrument is a true and correct copy of the original as the same appears on record in my office this 3rd day of March 1986.

Wayne Tschimperle, Clerk of Court

By: /s/ WAYNE TSCHIMPERLE
Clerk

C8-84-1051

IN RE PROCEDURE RELATING TO MINN.
STAT. § 144.343, SUBD. 6 (1981)

AMENDED ORDER

Effective July 1, 1984

WHEREAS, the Minnesota Legislature recently amended Minn. Stat. § 144.343 (1980) to prescribe procedures for the notification of parents, guardians, and conservators prior to performing abortions on certain persons, 1981 Minn. Laws ch. 228, § 1; and

WHEREAS, Minn. Stat. § 144.343, subd. 6(c) (1981) details the procedure to be employed in the event a pregnant woman elects not to allow the notification of a parent, guardian or conservator contemplated by Minn. Stat. § 144.343, subd. 2 (1981);

IT IS HEREBY ORDERED that the following procedure, effective this date, be employed to facilitate prompt judicial consideration of a petition pursuant to section 144.343, subd. 6(c):

(1) The petition shall initially be filed in and considered by the county court or, in the case of Hennepin and Ramsey Counties, in the district court, juvenile division or, in the case of a

unified judicial district, in the district court. Section 144.343, subd. 6(c) (i) (ii) (iii).

(2) An order denying the petition shall be appealable on the record to one judge of the district court, including the district court of Hennepin and Ramsey Counties or, in a unified judicial district, an order denying the petition shall be appealable on the record to two district court judges and if there be a division between said judges the order denying the petition shall stand.

Dated: June 14, 1984

BY THE COURT:

By: /s/ DOUGLAS K. AMDAHL
Douglas K. Amdahl
Chief Justice

OFFICE OF
APPELLATE COURTS
FILED
JUNE 14 1984
WAYNE TSCHIMPERLE
CLERK

Court No. 3-81-538 Civ
Exhibit 62a

EXCERPTS FROM DEFENDANTS' EXHIBIT 68

MAJOR STUDIES ON PSYCHOLOGICAL
ILL EFFECTS OF INDUCED ABORTION

Compiled by Dr. Vincent Rue

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DEFENDANTS' EXHIBIT NO. 69

Petitions

Abortion Notification Statute
Minnesota Statutes § 144.343, Subd. 6,
1981 Supplement
August 1, 1981 to March 1, 1986

Judicial District	No. of Counties	No. of Petitions Filed	No. of Petitions Granted	No. of Petitions Withdrawn	No. of Petitions Denied	No. of Petitions Appealed	No. of Petitions Affirmed	No. of Petitions Reversed
1.	7	78	77	1				
2.	1	793	793					
3.	11	52	51		1			
4.	1	2314	2311		3			
5.	15	4	1	1	2	1	1	
6.	4	279	278		1			
7.	10	7	5	2				
8.	13	2	2					
9.	17	6	6					
10.	8	38	34	2	2			
	87	3,573	3558	6	9	1	1	

Abortion Notification Statute
Minnesota Statutes § 144.343, Subd. 6,
1981 Supplement
August 1, 1981 to March 1, 1986

J.A. 494

Judicial District	No. of Counties	No. of Petitions Filed	No. of Petitions Granted	No. of Petitions Withdrawn	No. of Petitions Denied	No. of Petitions Appealed	No. of Petitions Affirmed	No. of Petitions Reversed
<u>First Judicial District</u>								
Carver		1		1				
Dakota		62	62					
Goodhue		12	12					
LeSueur		1	1					
McLeod		0						
Scott		0						
Sibley		2	2					
Subtotal		78	77	1				
<u>Second Judicial District</u>								
Ramsey		793	793					
Subtotal		793	793					

J.A. 495

Judicial District	No. of Counties	No. of Petitions Filed	No. of Petitions Granted	No. of Petitions Withdrawn	No. of Petitions Denied	No. of Petitions Appealed	No. of Petitions Affirmed	No. of Petitions Reversed
<u>Third Judicial District</u>								
Dodge		0						
Fillmore		0						
Freeborn		8	8					
Houston		0						
Mower		1			1			
Olmsted		37	37					
Rice		3	3					
Steele		0						
Wabasha		0						
Waseca		0						
Winona		3	3					
Subtotal	11	52	51		1			
<u>Fourth Judicial District</u>								
Hennepin		2314	2311		3			
Subtotal	1	2314	2311		3			

Judicial District	No. of Counties	No. of Petitions Filed	No. of Petitions Granted	No. of Petitions Withdrawn	No. of Petitions Denied	No. of Petitions Appealed	No. of Petitions Affirmed	No. of Petitions Reversed
<u>Fifth Judicial District</u>								
Blue Earth		0						
Brown		0						
Cottonwood		0						
Faribault		1		1				
Jackson		0						
Lincoln		0						
Lyon		1			1	1	1	
Martin		0						
Murray		0						
Nicollet		0						
Nobles		2	1		1			
Pipestone		0						
Redwood		0						
Rock		0						
Watonwan		0						
Subtotal	15	4	1	1	2	1	1	1

Judicial District	No. of Counties	No. of Petitions Filed	No. of Petitions Granted	No. of Petitions Withdrawn	No. of Petitions Denied	No. of Petitions Appealed	No. of Petitions Affirmed	No. of Petitions Reversed
<u>Sixth Judicial District</u>								
Carlton		0						
Cook		0						
Lake		0						
St. Louis		279	278		1			
Subtotal	4	279	278		1			

Judicial District	No. of Counties	No. of Petitions Filed	No. of Petitions Granted	No. of Petitions Withdrawn	No. of Petitions Denied	No. of Petitions Appealed	No. of Petitions Affirmed	No. of Petitions Reversed
<u>Seventh Judicial District</u>								
Becker		0						
Benton		0						
Clay		0						
Douglas		0						
Mille Lacs		1		1				
Morrison		0						
Otter Tail		0						
Stearns		2	1	1				
Todd		4	4					
Wadena		0						
Subtotal	10	7	5	2				

Judicial District	No. of Counties	No. of Petitions Filed	No. of Petitions Granted	No. of Petitions Withdrawn	No. of Petitions Denied	No. of Petitions Appealed	No. of Petitions Affirmed	No. of Petitions Reversed
<u>Eighth Judicial District</u>								
Big Stone		0						
Chippewa		0						
Grant		0						
Kandiyohi		0						
Lac Qui Parle		0						
Meeker		0						
Pope		2	2					
Renville		0						
Stevens		0						
Swift		0						
Traverse		0						
Wilkin		0						
Yellow Medicine		0						
Subtotal	13	2	2					

DEFENDANTS' EXHIBIT 70

PARTIAL TRANSCRIPT OF REMARKS BY
SENATOR GENE WALDORF DATED 3/24/81

MINNESOTA SENATE COMMITTEE ON HEALTH,
WELFARE AND CORRECTIONS
March 24, 1981

Partial Transcript Remarks
Regarding Senate File 287 (Tape 1, Side A)
by Senator Gene Waldorf, Chief Author

SEN. GENE WALDORF:

Mr. Chairman, I don't want to burden you with more testimony. I think as a parent I'm almost ashamed to admit it after hearing about what we are, but I think it's utter nonsense to assume that even if families where there is good communication that a daughter is going to want to come to her parents and tell her about, and tell them about her problem. It's just nonsense, and everybody that's got kids that age knows it or that remembers they went through that period in time. They don't want their parents to know when they don't live up to what they think their parent's expectations are of them.

Just a week or so ago my daughter, we discovered, had skipped school on St. Pat's Day after she had asked me to allow her to go to the parade and I refused. And she skipped school and she got caught, and she went through a lot of trouble to convince the counselor at school not to tell her parents, because obviously she would be concerned about our reaction and how we might feel about her.

It wasn't any threat to her but I think that indicates what all minors, particularly those with this kind of problem, how they're going to feel. And I don't think that it's safe to assume that all of those who are unwilling to communicate that easily to their parents are in families where the parents are going to abuse them or are insensitive to their problems or will impose some other personal feelings on their children. I know in the

case of my own children that if they had that kind of problem, my primary concern would be them and their well-being and nothing else would take precedence over that. And I think I can speak for an awful lot of parents when I say that. Mr. Chairman, that's my wrapup.

...

SEN. GENE WALDORF:

One of the reasons for this bill is to make certain that the minor has good medical information available to—in the event that she has an abortion, that she has the benefits of support from her parents and whatever counseling they can offer. And I think in that case that you would agree that it's—and as most of the professionals have testified, that's an important factor.

DEFENDANTS' EXHIBIT 71

PARTIAL TRANSCRIPT OF REMARKS BY
SENATOR GENE WALDORF DATED 4/7/81

MINNESOTA SENATE COMMITTEE ON HEALTH,
WELFARE AND CORRECTIONS
April 7, 1981

Partial Transcript of Remarks
Regarding Senate File 287 (Tape 1, Side A)
by Senator Gene Waldorf, Chief Author

SENATOR WALDORF:

The reason for the bill is that under current law, common law, first if all, suggests that parents be notified in the case of medical procedures involving their minor children and there have been a number of exceptions, most were put into our statutes in 1971, dealing with specific cases. One of them, which is section 144.343, deals with pregnancy, venereal disease and alcohol or drug abuse. An exception is made there to the requirement of parental consent. That exception has also been implied to mean no requirement for parental notification. I might point out that this language was passed in 1971 as a result of an increase in venereal disease and specifically was not dealing with the abortion question at all because at that point in time abortion was still illegal. It—because of that interpretation of that consent exception, we are trying through Senate File 287 to deal with bringing the parent back into that—into that difficulty and allowing a—the parents of a minor woman to be notified in the event that she asks for an abortion procedure. By Supreme Court we are not allowed to require any kind of consent and I have taken great pains in this bill and with a great deal of very good assistance from our Senate counsel in trying to deal with that issue so that we don't, in the process that we are describing in this bill, inflict some kind of parental consent on the process. I might point out that even though the parents are notified of the requested procedure that the minor is still in control and can make the decision and as a matter of fact does not even—is not

even required in any way to consult with her parents. What I hope to accomplish in this bill is to bring back what I think is loving support for the minor who is faced with a very, very difficult decision, one that I think will stay with her and affect her for the rest of her life. The courts have repeatedly affirmed the importance of parental support for the minor children. I have a number of quotations from the *Quinlan* case and from other cases relating to this. I'll forego those unless the question becomes a discussion point.

DEFENDANTS' EXHIBIT 72

PARTIAL TRANSCRIPT OF REMARKS BY
SENATOR GENE WALDORF DATED 5/6/81

MINNESOTA SENATE SESSION, MAY 6, 1981

Partial Transcript of Remarks
Regarding Senate File 287 (Tape 1, Side A)
by Senator Gene Waldorf, Chief Author

CHAIRMAN:

We're back to Item No. 17 on the General Orders.

The Chair recognizes Senator Waldorf.

SENATOR WALDORF:

Mr. Chairman, members, let me briefly give you the reasons why Senate File 287 is before you. In the Supreme Court decision upholding the Utah statute, the Court restated the long-standing position that the custody, care and nurture of the child reside first in the parents whose primary function and freedom include preparation for obligations the State can neither supply nor hinder. The guiding role includes counseling them on important decisions. The decisions include the physical, emotional and spiritual health of the child. The parent, if he or she knows about the decision to—of the child to have an abortion—can supply medical history to insure an informed decision on the part of the minor and include the moral implications of the decision. Neither the doctor or other professionals involved in providing abortions can give that support. Mr. Chairman and members, when we heard this bill in committee we had a great deal of testimony about the role of the parents and, unfortunately, a good deal of that testimony came from professionals who are dealing with minors on this very issue and counseling them on whether or not they should consider abortion as a viable option. The unfortunate thing about all of the testimony running through those professionals' presentations was that they—that they demean the role that the parents are taking today in counseling their own children. They suggested

that parents are abusive to their children. They suggested that parents don't accept their responsibility towards their children. That they don't communicate with them and that they have abrogated their role. I as one parent object to the fact that my own daughters, if they were to seek counseling on a matter as serious as abortion, might be, that my role as a parent in counseling them would be demeaned by those professionals and that I wouldn't have equal opportunity to provide counseling and love and care and concern for my own daughters. I think all of us recognize, and as well as the Court, that those who are in the situation at that age, 17 and under, have an awful lot of pressure on them that they can't deal with very well. The Supreme Court in the Utah decision again asserted by saying that there is no logical relationship between the capacity to become pregnant and the capacity for mature judgment concerning the wisdom of an abortion.